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Third report of the Secretary-General on the United Nations Operation in Burundi

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1577 (2004) of 1 December 2004, by which the Council extended the mandate of the United Nations Operation in Burundi (ONUB) until 1 June 2005 and requested me to report every three months on the situation in Burundi, the implementation of the Arusha Peace and Reconciliation Agreement for Burundi and the execution of the Operation's mandate. This report covers major developments since my report of 15 November 2004 (S/2004/902).

II. Transitional process

2. The six-month extension of the transitional period, which began on 1 November 2004, has allowed the Burundian parties to advance the peace process despite some delays in the electoral calendar. Since 1 November, the Transitional Government has promulgated a number of important laws, including legislation creating the National Defence Force and the National Police service. The President also promulgated a law to establish a National Truth and Reconciliation Commission, and decreed a limited right of assembly during the campaign on the constitution. While the referendum on the constitution will be conducted in accordance with the 1993 national election law, a new electoral code and a communal law must be adopted before the subsequent elections are held.

Debate on the post-transitional constitution

3. Some Burundian political leaders continued to call for further discussions on the text of the draft constitution before a referendum on the post-transitional constitution is held. These leaders were joined by President Domitien Ndayizeye, who on 6 January 2005 sought and promptly received the Constitutional Court's interpretation that would allow him to submit a revision of the constitution to referendum directly or through the National Assembly and Senate. The President addressed the Court to determine his capacity to directly amend articles 301, 302 and 303 of the draft constitution. It should be noted that article 301 prohibits transitional presidents from running in the first presidential election; article 302 requires that both the National Assembly and the Senate elect the first president of

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the post-transitional period; and article 303 provides for the co-option of an additional 18 to 21 members of the National Assembly under specific circumstances.

4. In reaction to the President's announced intention to amend the constitution, the President's party, FRODEBU, called for an endorsement of the constitution in the referendum, but opposed any pre-referendum amendments. On 12 January 2005, the FRODEBU Parliamentary Group issued a statement stressing that the proposed amendments would be inconsistent with the Arusha Agreement. The largest former armed group, CNDD-FDD (Nkurunziza), also voiced its opposition, issuing a statement in which it accused President Ndayizeye of trying to delay elections. CNDD-FDD (Nkurunziza) further warned that a "return to war" remained an option. On 17 January, 11 political parties (including FRODEBU) issued a joint communiqué condemning the President's attempts to amend the constitution.

5. On the other hand, the Vice-President's party, UPRONA, supported the President, advocating strongly for an amendment to the draft constitution. In response to the 11-party communiqué of 17 January, the President of UPRONA held a press conference on 20 January, in which he attributed the impasse to divisions within the predominantly Hutu G-7 parties, and called upon them to reach a common position. He reiterated the UPRONA stance that the draft constitution should be renegotiated.

6. During that period, my Special Representative for Burundi, Carolyn McAskie, met with President Ndayizeye on numerous occasions, as well as with other leaders to discuss the proposed constitutional amendments. My Special Representative sought to impress upon the parties the importance of adhering to the Arusha Agreement and its implementation, as envisaged and agreed by the signatories, and supported by the Regional Initiative, the African Union and the international community.

7. Regional leaders also played an important role in addressing this situation. On 17 January 2005, the Deputy President of South Africa and Facilitator of the peace process for Burundi met in Kampala with the Chairman and Vice-Chairman of the Great Lakes Regional Peace Initiative on Burundi, Presidents Museveni of Uganda and President Mkapa of the United Republic of Tanzania, to discuss the situation in Burundi. The Facilitator travelled on 25 and 26 January to Bujumbura, where he conveyed a message from the Region to all parties against the amendment of the constitution before the referendum and reminded them of their obligations under the Arusha Agreement.

8. Following a period of uncertainty and mounting national, regional and international dissatisfaction, President Ndayizeye announced on 4 February that he would no longer seek a constitutional amendment. The President's decision was welcomed by CNDD-FDD (Nkurunziza) and FRODEBU, among others, although UPRONA expressed dissatisfaction. In this regard, three Tutsi-dominated parties, UPRONA, RADDES, and PARENA, have since called upon voters to vote against the constitution in the referendum.

Electoral process

9. It should be recalled that on 16 October 2004, the National Independent Electoral Commission (CENI) published a timetable for the referendum and

elections that was endorsed by the Transitional Government and the Regional Initiative. According to that timetable, the referendum should have been held on 26 November 2004, to be followed by *colline*, communal, legislative and Senate elections from 9 February to 23 March 2005. The process would have culminated with the indirect election of the President by Parliament on 22 April 2005. Citing operational difficulties, CENI has twice postponed the date of the referendum, to 22 December 2004 and to 28 February 2005. CENI has yet to announce a revised calendar for the national elections.

10. Despite slippages in the electoral calendar, there has been some significant progress in the preparation for the referendum and elections during the reporting period. The armed political parties and movements registered as political parties, allowing for their participation in the referendum and subsequent elections. Voter registration commenced on 20 November 2004, with extensive logistical support mobilized by ONUB, including the transport of registration and electoral materials from Bujumbura to all 17 provinces. The registration of voters surged, following a slow start, prompting CENI to extend the process by an additional day until 30 November. Enrolment percentages were high and ranged from 60 to 90 per cent at the provincial level. In total, 3,134,116 Burundians have registered to vote.

11. The processing of voter registration cards, the publication of voter lists, including the appeals process, proved to be time-consuming and a logistic challenge. ONUB, the United Nations Development Programme (UNDP) and the World Food Programme (WFP) assisted CENI with additional information technology hardware, generators and technical advice to meet these challenges. On 14 January 2005, CENI posted the voter registration lists. A 10-day appeals and challenges period followed and was successfully concluded on 23 January, which has allowed for the publication of finalized lists. The printing of voter cards began on 18 February. Since that date, ONUB has been supporting CENI with the transport of electoral materials to its provincial headquarters from where CENI provincial commissions transport the materials to the communes and polling stations. ONUB also provided technical assistance to CENI in its civic education media campaign.

12. In terms of resource mobilization, I am pleased that donors have rallied to support the process. By early 2005, the UNDP Trust Fund had received $12,799,000. Further contributions have been pledged by Belgium and the European Union, and Japan is exploring a possible contribution. Important assistance was also secured from the Governments of South Africa and Rwanda, which provided ballot boxes and voting booths, and computers, respectively. An estimated $23 million will be required for the entire electoral process, including the referendum.

13. Once the referendum is concluded, the main challenge will be the enactment of the electoral code and the communal law, without which the national elections cannot be held. On 2 February, a spokesperson for President Ndayizeye indicated that the two texts had been finalized and were ready for submission to the Council of Ministers, before being introduced into the National Assembly and the Senate. By 21 February, the draft laws were under discussion. Both the electoral code and the communal law are expected to come under close scrutiny by parliamentarians in the context of future power-sharing arrangements. The discussion and enactment of those bills must conclude expeditiously to avoid further delays in the electoral calendar. The Transitional Government should also finalize its plans to ensure a minimum level of security for the elections.

Contacts with FNL

14. On 25 January 2005, FNL (Rwasa) announced its willingness to restart peace talks with the Transitional Government, the first such indication since the Government ended formal negotiations after FNL claimed responsibility for the Gatumba massacre of 13 August 2004. Responding to the FNL approach, President Ndayizeye's spokesperson said that the Government would not refuse talks. At the same time, FNL (Rwasa) approached my Special Representative through an intermediary, and indicated its preparedness to negotiate with the Transitional Government. While mediation of the Burundian peace process remains the responsibility of the Regional Initiative, the United Nations is prepared to extend to the Region and Facilitator any assistance that will help achieve a comprehensive ceasefire and sustainable peace in Burundi.

Implementation Monitoring Committee

15. The Implementation Monitoring Committee, established pursuant to the Arusha Agreement, met three times in the reporting period. Its twenty-third regular session was held on 22 and 23 November 2004. The Committee noted the advances made in the peace process. In particular, it called upon the Government to adopt laws creating a new national defence force and security service; register armed political movements as political parties; and begin the demobilization, disarmament and reintegration programme on schedule.

16. During its twenty-fourth regular session, on 17 December 2004, the Implementation Monitoring Committee expressed its concern at a report by the Joint Ceasefire Commission, which detailed the continued human rights violations perpetrated against civilians by Burundian Armed Forces and CNDD-FDD (Nkurunziza) forces. The Committee also expressed concern at the political manoeuvres surrounding the draft constitution and called upon all parties to respect the Arusha Agreement. It further called upon the Government to finalize an electoral code and a communal law and to collaborate on issues of military rank harmonization within the context of the overall security sector reform/ demobilization, disarmament and reintegration programme.

17. At its twenty-fifth regular session, held on 24 and 25 January 2005, the Implementation Monitoring Committee welcomed the progress in the peace process, including the publication of voter lists, the promulgation of National Defence Force and National Police service laws, and the registration of the former armed political movements as political parties. Nonetheless, it remained concerned about President Ndayizeye's attempts to amend the draft constitution before the referendum. In a letter to the President, the Committee cautioned strongly against violation of the Arusha Agreement. The Committee recalled previous recommendations on the electoral process, and in particular the need for CENI to complete a new election timetable, and to respect the 28 February 2005 date for the referendum. Members of the Committee examined the new law on the National Truth and Reconciliation Commission, noting the need to avoid overlapping jurisdictions between the Commission and the proposed international judicial commission of inquiry. The Committee held two special meetings in February to examine matters pertaining to the return of Burundian refugees, other vulnerable populations, land reform and political prisoners.

III. Regional dimension

18. I attended the first summit of the International Conference on the Great Lakes Region, held at Dar es Salaam, United Republic of Tanzania, on 20 November 2004. Following the adoption of the Dar es Salaam Declaration of Principles on Peace, Security, Democracy and Development in the Great Lakes Region, the 11 core countries of the Conference began working together to transform the Principles into concrete action with a view to ensuring that the root causes of the region's instability, and the linkages among the individual conflicts, were addressed in a comprehensive manner. Towards that end, a regional Inter-Ministerial Committee was set up to prepare draft protocols and programmes of action in the four thematic areas of the Conference. The first meeting of the Inter-Ministerial Committee was held at Kigali on 17 and 18 February 2005, and additional meetings are planned prior to the convening of a second summit of Heads of State and Government of the core countries later in 2005.

19. ONUB has continued to monitor developments in the region that might impact on the Burundi peace process, in particular the situation in the eastern section of the Democratic Republic of the Congo. While there has been no significant escalation in infiltrations by foreign-armed groups into Burundi, ONUB military observers have reported continued incidents of armed robbery and cattle theft in Bubanza and Bujumbura Rurale provinces by armed elements that reportedly retreat across the border into the Democratic Republic of the Congo. Personnel of ONUB and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) continued to liaise closely, conducting regular meetings at Bukavu, Democratic Republic of the Congo, and Bujumbura. The first strategic-level inter-mission meeting took place at Kinshasa from 10 to 12 February, with the participation of my Special Representatives for the Democratic Republic of the Congo and Burundi. The next strategic-level inter-mission meeting is scheduled to take place at Bujumbura in May 2005.

20. On 3 January 2005, the Transitional Government issued a communiqué in which it expressed its intention to normalize relations with the Democratic Republic of the Congo. The Foreign Minister of Burundi visited Kinshasa from 10 to 12 February 2005, resulting in the conclusion of a bilateral agreement on the normalization of relations and cooperation on security matters between the two States. In the light of that positive development, I have requested my Special Representative for Burundi to pursue through discussions with the respective Governments and MONUC a plan of action that will augment security along the joint Burundi/Democratic Republic of the Congo border.

21. A disturbing development during the reporting period was the appearance in Bujumbura Mairie of two inflammatory tracts on 14 January and 1 February 2005. Both tracts were similar to those that circulated before the massacre at Gatumba in August 2004, which called for the extermination of the Congolese Banyamulenge refugees in Burundi.

22. ONUB immediately brought this matter to the attention of the Transitional Government and increased day and night patrols in areas where the Banyamulenge refugees are located. There are about 3,000 Banyamulenge refugees in Burundi housed in two camps in Mwaro and Muyinga, as well as some 80 families who reside in a former transit site in Bujumbura Mairie.

23. The Transitional Government has also taken steps to enhance security in those areas. On 24 January, my Special Representative issued a public statement, which emphasized the danger of incitement to hatred against any community. On 26 January, a meeting between ONUB and MONUC took place at Bukavu to share information and coordinate activities in relation to the protection of the Banyamulenge refugees. In coordination with the Office of the United Nations High Commissioner for Refugees (UNHCR), ONUB continues to liaise closely with local authorities, the Gendarmerie and the National Defence Force in monitoring the situation. It should be noted, however, that the Transitional Government has yet to make public its findings into the massacre of Banyamulenge refugees that took place in Gatumba on 13 August 2004.

Security Council mission

24. On 24 and 25 November 2004, a Security Council mission to Central Africa visited Burundi for the fourth time in as many years. The visit was welcomed by the Burundian parties and sent a strong message to them on the continued commitment of the international community to the peace process in Burundi. While the mission in general expressed satisfaction with the progress achieved on the basis of the principles of dialogue, power-sharing and reconciliation, it also encouraged its Burundian interlocutors to conclude the transitional process expeditiously.

IV. Military and security developments

Security situation

25. The security situation in Burundi has remained generally stable. However, armed clashes between the FAB/CNDD-FDD and FNL (Rwasa) continued in the provinces of Bujumbura Rurale, Bubanza and Cibitoke. The Burundian Armed Forces conducted numerous targeted offensive operations, during which civilians suspected of being FNL combatants and others accused of banditry were reportedly mistreated, arrested and detained. ONUB has continued to express serious concern that a large number of civilians detained by the security forces are routinely deprived of justice and denied fundamental human and legal rights.

26. On 23 January 2005, the Governor of Bubanza province and his bodyguard were killed when his entourage was stopped by a group of unidentified assailants. The same group was believed to have ambushed a car carrying Burundian parliamentarians travelling on the same Bujumbura-Bubanza road. The Government of Burundi accused FNL (Rwasa) of being responsible, which the armed group categorically denied. ONUB issued a statement on 25 January 2005 deploring the murder of the Governor and subsequently investigated the incident but was unable to ascertain the motive or its perpetrators.

27. On 1 February 2005, four ONUB military observers in Rutana province were robbed at gunpoint when a group dressed in military uniform entered their residence. The attack is of serious concern and the Transitional Government must see that the necessary measures are taken to ensure the safety of United Nations personnel.

28. In November 2004, the Transitional Government renewed its efforts to reduce the level of criminality, with limited results, and began in the same month to discuss

a draft law that proposed to shorten considerably the length of a trial period for perpetrators caught in the act of committing violent crimes. In response to international concerns that the law would contravene international human rights conventions and treaties to which Burundi is a party, the law was withdrawn and is being redrafted.

Small arms

29. The proliferation of weapons within the country remains an issue of concern. From 27 to 29 January 2005, a consultant on conflict prevention and small arms proliferation visited Burundi on behalf of the UNDP Small Arms and Demobilization Unit to assess the proliferation of weapons among the civilian population, with a view to developing community disarmament programmes with local authorities. The Small Arms Reduction Programme secretariat of the UNDP Bureau for Crisis Prevention and Recovery has been developing a Great Lakes regional approach, with renewed focus on Burundi. In cooperation with ONUB and the Small Arms Reduction Programme, the Small Arms and Demobilization Unit is planning to set up programmes in Burundi by September 2005.

30. According to the report of the Group of Experts on the Democratic Republic of the Congo of 25 January 2005 (S/2005/30), some 300,000 guns are currently in the hands of the various military groups engaged in the peace process in Burundi, as well as militias, local defence forces and insurgents. The Group's recommendation for the creation of a small arms component and the establishment of a baseline data and weapons inventory for Burundi is therefore welcomed. However, additional resources would be required to establish such a component.

Mine action

31. During the reporting period, the Transitional Government considered legislation for the creation of a national humanitarian mine action commission and a national humanitarian mine action coordination centre. The Swiss Foundation for Mine Action and Danish Church Aid are expected to begin training activities in March 2005 in order to operationalize their projects by April-May 2005. A United Nations integrated support project is being developed to assist in the Transitional Government's effort to assume full responsibility for national mine action coordination and demining.

Security sector reform

32. On 31 December 2004, President Ndayizeye promulgated laws outlining the creation, organization, composition and functioning of the new National Defence Force and the new National Police service. The National Defence Force Chief of Staff and a deputy were named on 12 January 2005, followed on 28 January with the nomination of the Director-General of the National Police and his deputy.

33. Broadly compatible with the Arusha Agreement, both laws provide the structural framework for the respective establishment of a defence force and a police service. However, considerable work remains to define their operational modalities and to enact the necessary legal instruments and regulations. ONUB will continue to work with the parties and donors in defining an overall strategy for security sector reform.

34. In the meantime, following the successful training and integration of 1,800 joint Burundian Armed Forces/CNDD-FDD security units at Tenga at the end of 2004, an agreement was reached between the Government and the armed political parties and movements on 13 January 2005 to commence the training and integration of an additional 2,700 armed political parties and movements and Burundian Armed Forces members at the Tenga training centre, which will be funded by a number of Governments, in particular the Government of the Netherlands.

Disarmament, demobilization and reintegration

35. Despite initial delays, I am pleased to report that there has been progress on demobilization, disarmament and reintegration during the reporting period. On 2 December 2004, President Ndayizeye launched the disarmament and demobilization process in Muramvya. As of 4 February 2005, 4,441 armed political parties and movements and ex-Burundian Armed Forces combatants — who will not be integrated into the security forces — had been disarmed and demobilized at three demobilization centres in Gitega, Bubanza and Muramvya. At each of the demobilization centres, the ex-combatants received elementary training to develop skills that will facilitate their social and economic reintegration, as well as financial assistance. ONUB and the World Bank Multi-Country Demobilization and Reintegration Programme continue to provide technical assistance to the Executive Secretariat of the National Commission for Demobilization, Reinsertion and Reintegration to improve the quality of its draft social reintegration programmes, which should be ready for publication later in 2005.

36. On 31 December 2004, President Ndayizeye signed a decree that consolidated the combatants of the six armed political parties and movements located across 12 pre-disarmament assembly areas into five cantonment sites, two for CNDD-FDD (Nkurunziza) in Mabanda (Makamba province) and Gashingwa (Muramvya province); two sites for the armed political parties and movements in Kibuyi (Bubanza province) and in Buramata (Bubanza province); and one site for integration into the National Police service in Rugazi (Bubanza province). This process has allowed for the transformation, and subsequent registration, of the armed political parties and movements into political parties which began in January 2005.

37. By 20 February 2005, 12,950 ex-combatants, predominantly from CNDD-FDD and ex-Burundian Armed Forces, entered the cantonment sites in preparation for their relocation to a demobilization centre. The general conditions in the cantonment sites are poor and will require vigilance on behalf of the Ministry of Defence to ensure that appropriate assistance is both available and equitably distributed. On 22 February 2005, the Joint Ceasefire Commission, the Executive Secretariat and ONUB met to address specific concerns pertaining to the conditions at the Buramata cantonment site. In subsequent meetings, all parties agreed to begin the initial demobilization of ex-combatants from Buramata. ONUB will continue to press the authorities to fulfil their obligations, while also providing appropriate assistance.

38. The remaining armed political parties and movements have yet to commence their full-scale transfer from the pre-disarmament assembly area to the cantonment sites, citing a number of unresolved issues, including the harmonization of ranks, appointment of their representatives in the National Defence Force high command,

approval of an integration plan, and the return to barracks by the Burundian Armed Forces. In the meantime, a small advance team representing the armed political parties and movements moved into the Kibuyi cantonment site, following a meeting between the Minister for Defence and my Special Representative on 16 February 2005.

39. In an agreement reached between ONUB, the Executive Secretariat and the Burundian Armed Forces, the return to barracks of Burundian Armed Forces soldiers will occur simultaneously with the movement of the armed political parties and movements to the cantonment sites. At the sites, their security will be monitored by ONUB military observers, in coordination with the joint security units and joint liaison teams composed of members from all parties. Negotiation over an integrated command structure and enunciation of an integration plan must conclude swiftly in order to ensure the integration of the armed political parties and movements into the national security structures.

40. In a letter dated 27 December 2004, the International Service of the German Agency for Technical Cooperation requested the signing of a new convention with the European Commission (EC) and WFP to regularize the existing arrangements and allow for sufficient funding to continue with the food distribution to the armed political parties and movements. ONUB is presently engaged in discussions with the German Agency for Technical Cooperation, EC and the Transitional Government to ensure a continued food supply and distribution.

41. It would be recalled that the first phase of demobilization of child soldiers was completed in 2004, during which UNICEF and its partners demobilized 2,260 Burundian Armed Forces and *Gardiens de la paix* child soldiers through the Child Soldiers National Structure. The second phase of the child soldier demobilization commenced on 2 December 2004, and was completed by 31 December 2004. An additional 618 children from the six armed political parties and movements were demobilized and reintegrated with their families or are in community care.

42. While progress has been achieved, there remain unresolved issues that could delay the demobilization, disarmament and reintegration process. These include rank harmonization and the absence of a common operational plan for army integration. On 28 December 2004, the Tripartite Working Group on Rank Harmonization — comprising the Joint Ceasefire Commission, the Chiefs of Staff for Integration and ONUB — held a meeting after which it submitted recommendations to the Minister of Defence on rank harmonization. The harmonization of ranks must be concluded by the end of February to avoid delaying the demobilization and integration processes. The Transitional Government also needs to be more transparent regarding plans for the reintegration of former combatants to enable greater support by the international community.

Police

43. On 19 January 2005, the Minister of Public Security signed a paper entitled "Concept for the Integration of the Burundi National Police". Elaborated jointly by the Transitional Government and ONUB, the paper establishes a process and identifies the responsibilities of the different actors in the integration and transformation of the National Police. It also provides a basic framework within which donors can determine the level and nature of their assistance.

44. This paper envisages that the reform and integration of the National Police will take place in two phases. The first phase will focus on ensuring security during the elections, which is expected to be provided by both the national police and the defence forces. The second phase consists of various consolidation activities and long-term reform and capacity development initiatives.

45. During the first phase, ONUB civilian police should participate in a selection, vetting and screening committee, which has not been yet created, to identify candidates for integration into the national police and to assist in the training of their trainers. In this regard, ONUB began on 18 February a 10-day training-of-trainers course, which will comprise three intakes, each consisting of 70 Burundian civilian police trainers selected from government and armed political parties and movements officers. ONUB civilian police have also continued to provide advice to the Transitional Government on security during the elections, as well as to local police authorities in the provinces of Gitega, Ngozi Makamba, Muyinga and Bujumbura Mairie.

V. Deployment of the United Nations Operation in Burundi

46. As at 18 February 2005, the military strength of ONUB stood at 5,378 of the overall authorized strength of 5,650. The current strength includes 91 staff officers, 190 military observers deployed to 27 team sites, and infantry battalions from Pakistan (deployed to Cibitoke province), Ethiopia (Gitega and Muyinga), Nepal (Bubanza and Ngozi), South Africa (Bujumbura Mairie, Bujumbura Rurale, Muramvya, and Mwaro) and Kenya (Makamba) and an infantry company from Mozambique (Bujumbura Mairie).

47. Major operational activities of the ONUB military component have included monitoring the ceasefire agreements, assisting with the nationwide distribution of electoral material, monitoring the implementation of demobilization, disarmament and reintegration activities, including the transportation of armed political parties and movements ex-combatants from the pre-disarmament assembly areas to designated cantonment sites. The military component is also providing between 12 to 18 mission escorts daily to personnel from ONUB, United Nations agencies and programmes and non-governmental organizations, as well as to food convoys to the various assembly/cantonment sites throughout Burundi. ONUB units remain deployed and have increased patrols close to the refugee camps in Mwaro and Muyinga and the former transit site at Ngagara (Bujumbura Mairie) where Congolese Banyamulenge refugees are located.

48. A series of ONUB military operations during the reporting period were aimed at deterring foreign combatants from infiltrating the border, curtailing the flow of illegal weapons and assisting in the monitoring of the Democratic Republic of the Congo arms embargo, in coordination with MONUC. The military component also undertakes daily aerial reconnaissance and maritime patrols, for both monitoring and confidence-building purposes. ONUB has provided military and logistical assistance to MONUC in preparation for the onward deployment of two brigades to the Democratic Republic of the Congo through Bujumbura.

49. In November 2004, ONUB established its fourth regional office, in Ngozi. The deployment of ONUB civilian staff throughout the country was completed with the establishment in February 2005 of a fifth regional office, in Bujumbura Rurale.

These regional offices have enhanced ONUB assistance for the electoral process, demobilization, disarmament and reintegration, human rights monitoring, public sensitization campaigns, policing and corrections reform. They have also allowed ONUB to work in close partnership with civil society and community leaders.

50. Each regional office includes electoral, human rights, civilian police, civil affairs and public information personnel operating under the leadership of a regional coordinator. In addition, each office has an area of responsibility that follows provincial boundaries to ensure that there is no duplication of contacts with local authorities. Although the military zones of operation differ from the administrative areas used by the civilian component, ONUB has nonetheless sought to co-locate offices, maintaining an integrated mission approach and utilizing shared resources. In this connection, the planning for an integrated containerized headquarters on a greenfield site in Bujumbura is at an advanced stage. Once completed, it will consolidate ONUB presence in Bujumbura in one location.

51. In accordance with paragraph 10 of Security Council resolution 1545 (2004) of 21 May 2004, the Secretariat has been negotiating with the Transitional Government to conclude a status-of-forces agreement for ONUB. Following a comprehensive review of the comments of the Government of Burundi on the draft, the Office of Legal Affairs of the Secretariat is expected to dispatch a team to Burundi shortly to finalize discussions on the agreement.

VI. Human rights, rule of law and gender

52. As detailed in my previous report, extrajudicial murders and acts of violence committed against the civilian population by the Burundian Armed Forces and CNDD-FDD (Nkurunziza), CNDD (Nyangoma) and *Gardiens de la paix* continued, including looting of property, intimidation, extortion, illegal incarceration, ill-treatment of detainees, rape and torture. There are frequent reports of government and CNDD-FDD soldiers looting neighbourhoods during operations against FNL in Bujumbura Mairie and Bujumbura Rurale, sometimes detaining individuals suspected of collaborating with FNL for several days in violation of national legislation.

53. Access of civilians to local and international organizations increased significantly in comparison to the period preceding the arrival of ONUB. Nevertheless, both government and CNDD-FDD (Nkurunziza) soldiers have continued to deny access of ONUB military and human rights officers to specific areas and to military installations in Bujumbura Mairie and Bujumbura Rurale.

54. On 30 December 2004, a senior member of the Gendarmerie expressed concern regarding the behaviour of CNDD-FDD in Bujumbura Rurale and the fact that Burundian Armed Forces and CNDD-FDD commanders were unwilling to hold their soldiers accountable for their actions. Under the pretext of operating in a "state of war", human rights violations committed by those soldiers against the civilian population are seldom investigated.

55. In January 2005, the Minister of Public Security condemned the practice by the CNDD-FDD of operating "parallel administrations" in Bujumbura Rurale and said that CNDD-FDD soldiers guilty of violating the law would be sanctioned. Since January 2005, some CNDD-FDD leaders have admitted that their troops have

committed abuses against the civilian population and have asked ONUB to help address the problem. During the period, both the Burundian Armed Forces and CNDD-FDD authorized ONUB human rights officers to visit a number of military positions. The Burundian Armed Forces and CNDD-FDD must demonstrate their commitment to ensure that their soldiers respect international human rights and humanitarian law.

56. The number of incidents of sexual violence remains a serious concern. ONUB, the United Nations country team, civil society, women's groups and local and international non-governmental organizations continue to work together to enhance awareness, conduct public sensitization campaigns, and provide psychological, medical and legal assistance to victims. Advocacy work led by the Office for the Coordination of Humanitarian Affairs, and with the International Committee of the Red Cross and the United Nations Population Fund, led the Ministry of Health to endorse a specific medical protocol for victims of sexual violence applicable within each public health facility nationwide.

57. On 11 December 2004, United Nations personnel in Burundi, led by my Special Representative, joined local and international organizations in a march against sexual violence in Bujumbura, marking the conclusion of a 16-day nationwide campaign to stop sexual violence against women. Incidences of domestic violence, although believed to be high, remain almost entirely unreported.

58. Between November 2004 and February 2005 ONUB carried out assessments of Burundi's 11 overcrowded prisons. In collaboration with prison authorities, ONUB conducted medical and hygiene assessments in four prisons in Bujumbura, Gitega and Ngozi. ONUB is working with the authorities to reactivate a centralized database of all prisoners, including identification of minors and the elderly. ONUB is also working with judicial officials to expedite the trial of minors held in prolonged pre-trial detention.

59. ONUB further carried out systematic monitoring visits to police holding cells countrywide. Common irregularities raised with police officials included irregular registration, overcrowded cells, co-location of adults with minors, detention of individuals for extended periods and inadequate reasons for detention. A number of individuals were released as a result of ONUB visits and police at several locations made clear efforts to address concerns. Ill-treatment of detainees was documented at two locations in Bujumbura Mairie.

60. On 5 January 2005, President Ndayizeye promulgated a law that will create a national truth and reconciliation commission. The role of the commission and the proposed international judicial commission of inquiry (a report on which my assessment mission will shortly submit to the Security Council) will form an integral part of Burundi's response in tackling persistent and chronic impunity, once a consensus is reached on the way forward.

Gender issues

61. Over the reporting period, the gender mainstreaming efforts of ONUB continued to focus on the political participation of women, in particular supporting the 30 per cent quota allocated by the draft constitution for women's participation in State institutions. ONUB is also advocating for the inclusion of gender mainstreaming provisions in the electoral code and communal law. A global plan of

action to mobilize women for the elections has been finalized, and training provided in each province in association with the United Nations Development Fund for Women (UNIFEM) and local and international non-governmental organizations.

62. Within the Mission, ONUB has been working with relevant sections to ensure that the specific needs of women in cantonment areas are taken into consideration. In cooperation with UNIFEM, ONUB is conducting a needs assessment that will recommend to the Transitional Government areas of refinement required to ensure the appropriate demobilization of women associated with fighting forces, including appropriate reintegration strategies, and issues related to sexual and gender-based violence.

63. Gender awareness and mainstreaming is an integral part of ONUB induction training provided to ONUB civilian and civilian police personnel. A training-of-trainers session has also been devised for ONUB military personnel. The ONUB Gender Task Force, mentioned in my previous report, is now fully operational, and efforts are under way to establish an inter-agency coordination group for gender mainstreaming across the United Nations system in Burundi.

VII. Humanitarian situation

64. Throughout the reporting period, the protection of civilians in Bujumbura Mairie (Kanyosha commune) and Bujumbura Rurale (Mutambu and Nyabiraba communes), remained a cause for concern, with increased targeted killings, abductions, torture and kidnappings. All parties to the conflict are responsible for continuous forced taxation and misappropriation of land and houses.

65. During December 2004, approximately 25,000 residents, displaced since February 2004 from Kabezi commune, were encouraged by provincial authorities and the Burundian Armed Forces to return. On 30 December 2004, following clashes with FNL, the Burundian Armed Forces and CNDD-FDD (Nkurunziza) ordered approximately 13,000 people to vacate their homes in Kanyosha commune. The movement, although orderly, created substantial disruption for thousands of people, the last of whom returned to their homes in January 2005.

66. As of 6 February 2005, UNHCR reported the return of some 3,651 refugees to Burundi in 2005, either spontaneously or with United Nations assistance. Since 2002, when a total of 52,283 returnees were registered, the number has increased gradually each year, with 82,366 returning in 2003 and 90,327 in 2004. These returns reflect a growing confidence in the peace process and overall improvement in security conditions, particularly in the interior and the provinces bordering the United Republic of Tanzania.

67. The fragile food security and nutritional status of the population in the northern provinces of Kirundo, Muyinga and Ngozi required a strengthening of humanitarian programmes by United Nations agencies and non-governmental organizations. The fragile conditions were mostly the result of the combined effects of recurrent cycles of drought, low land productivity, poor quality of household diet and recurrent disease outbreaks. In cases where high malnutrition rates were initially reported, assessments later confirmed that nutritional surveillance and outreach had been limited following the integration of the national nutritional service into the provincial health system. This issue is being reviewed in

consultation with the national health authorities, the United Nations system and non-governmental organizations. Similar activities aimed at strengthening early warning and surveillance in the areas of food security and nutrition are being undertaken in Kayanza, Ruyigi and Cankuzo provinces.

VIII. Development, quick-impact projects and HIV/AIDS

68. The provision of development assistance in the post-transition period remains crucial in anchoring achievements made during the transition, while rebuilding a shattered economy and State infrastructure. In addition to the World Bank's poverty reduction strategy, the United Nations country team has articulated a United Nations development assistance framework for the period 2005-2008, taking into consideration the objectives stated in the Millennium Development Goals and the national development plans. Implementation of the development assistance framework will aim at creating a foundation from which sustainable peace and economic growth will enable all Burundians to break the vicious cycle of poverty and conflict. Burundi's conflict is linked to demographic pressures and lack of resources. As such, an important element of ensuring peace will be the elected Government's ability to provide economic opportunities for the population. At the same time, increased international donor disbursement will be required if Burundi is to emerge successfully from the transitional phase.

Quick-impact projects

69. During the reporting period, 29 community-based quick-impact projects in 12 provinces have received $417,476 in direct funding, of which 80 per cent of the funds have been disbursed. Through this programme, ONUB has rehabilitated 10 schools, benefiting over 7,000 teachers and students, provided new lodgings for some 400 orphans, improved three community health centres serving over 100,000 people and provided sports equipment and books to 53,000 pupils, housing to 108 families and clean water to 13,500 villagers. Small rural communities, including the Batwa community, have also benefited from the Mission's quick-impact projects. The envisaged construction of nine small bridges in Ruyigi and Bubanza provinces will improve access to basic community services and increase trade opportunities for four remote communities.

HIV/AIDS

70. There has been a significant increase in the number of Burundians living with HIV/AIDS that receive treatment with antiretroviral medication. By the end of December 2004, 5,050 Burundians were receiving treatment, compared with 1,200 at the beginning of that year. This fourfold increase means that 20 per cent of those in need of treatment now have access to it. While the Government and international partners have shown commitment, reinforced efforts are still required if Burundi is to achieve the 50 per cent access target it has set for the end of 2005.

IX. Code of conduct

71. My Special Representative has moved vigorously and proactively in enforcing my "zero tolerance" policy in relation to undesirable behaviour, abuse and sexual exploitation by United Nations personnel in Burundi. During the reporting period, the ONUB code of conduct officer, accompanied by my Special Representative and Force Commander, conducted briefings for all contingent commanders and senior officers. An extensive programme of regional office visits has commenced, complementing visits to each battalion and the induction training received by all civilian personnel upon their arrival to the Mission.

72. The work of the code of conduct task force in ONUB has focused on the identification, response and prevention of misconduct. In this regard, a revision of training materials and manuals used by ONUB military personnel has commenced to ensure they are clearly articulated and that these personnel comprehend the standards expected by the United Nations.

73. The few complaints of misconduct by United Nations personnel have been promptly addressed and are being investigated. If the Mission is to meet the high standards it has set itself, additional staffing may be required to strengthen the Mission's code of conduct and disciplinary capacity.

X. Public information

74. On 13 December 2004, the ONUB public information component commenced daily production of its bilingual (French and Kirundi) radio broadcasts, which are disseminated to one public and four private broadcasters, reaching 90 per cent coverage of the country. Radio programming continues to support the ONUB mandate, with a particular emphasis on demobilization and reintegration, and electoral and civic education. The Mission has also distributed, through its regional offices, copies of the draft constitution, electoral and civic education posters, and flyers, and has produced and staged theatre plays as part of ONUB community outreach. ONUB also hosts weekly press conferences to clarify to the Burundian public the work of the Mission and progress in the peace process.

XI. Observations

75. Despite delays in the electoral calendar, there has been continued progress in the peace process, especially with regard to the peaceful extension of the transition, preparation for elections, and the commencement of the demobilization, disarmament and reintegration process. As the transitional process enters its final and most crucial phase, key tasks must now be completed without delay, including the promulgation of an electoral code and communal law, the establishment of technically realistic dates in the electoral calendar and the commencement of meaningful military and police integration that address the concerns of all parties. The inclusion of FNL (Rwasa) in the peace process should also be carefully assessed in order to achieve sustainable peace and stability throughout Burundi.

76. While considerable progress has been achieved, political tensions in the country remain, affecting trust between the parties. Sectarian and individual interests continue to characterize and influence the peace process. I therefore

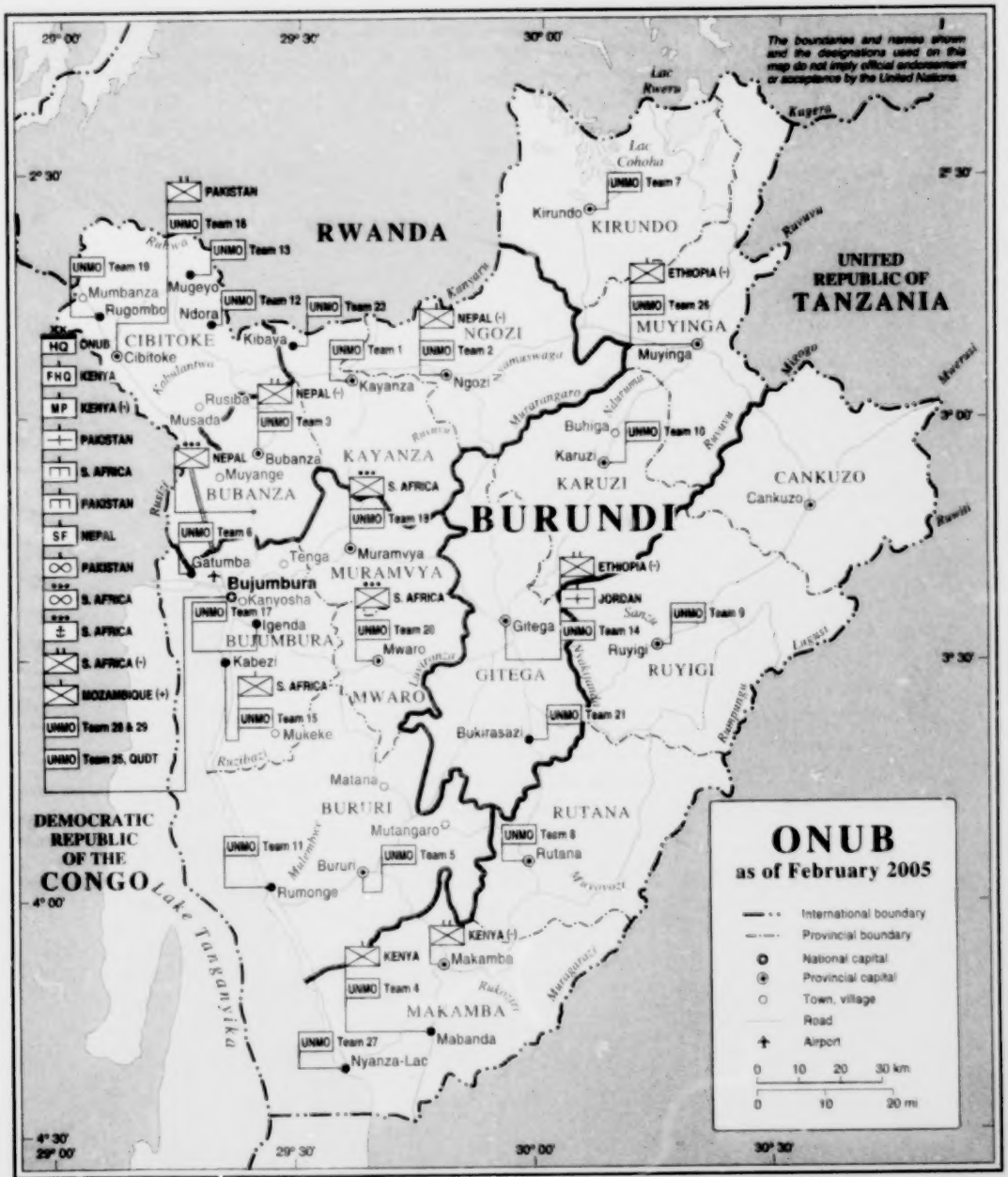
reiterate my call to all political and military leaders to stay the course, to respect the letter and spirit of the Arusha Agreement and to conclude the transitional process expeditiously and in good faith.

77. The Regional Initiative and the international community have from the start played a central role in supporting and pushing forward the peace process in Burundi, often navigating through complex and delicate elements of the transition. It is obvious that the sustainability of peace after elections will require the same, if not an increased, level of regional and international engagement to provide assurances for all sectors of Burundian society. I have instructed my Special Representative to explore with the Burundian parties and regional and international partners ideas on how the United Nations and the international community could continue to support the consolidation of peace after elections, and I intend to provide specific recommendations in my next report to the Security Council.

78. Similarly, a decisive donor response will be required in the post-transitional period to help stabilize the country at a time of increased returns of refugees and internally displaced persons, as well as the disarmament, demobilization and social reintegration of combatants and the integration of the armed forces. The link between conflict and development in Africa can be seen clearly in the case of Burundi, which is one of the most densely populated countries in Africa. A comprehensive approach to peacekeeping and peacebuilding in that country must therefore include a willingness on the part of the international community to complement the substantial investment in peacekeeping with a decisive input for sustainable development in order to avoid the re-emergence of conflict.

79. The extent of human rights violations in Burundi continues to be a source of deep concern. The culture of impunity, which has contributed to the conflict, must be addressed decisively, in order to lay the foundation of lasting peace and national reconciliation in the country. Renewed focus on this essential issue should be one of the priorities of the newly elected Government, once it is installed.

80. In conclusion, I would like to thank the Heads of State of the Regional Initiative, in particular its Chairman, and the Facilitator for their continued efforts to keep the transitional process firmly on track. I would also like to express my sincere appreciation to the men and women of ONUB, who, under the leadership of my Special Representative, have been working tirelessly for the sake of peace in Burundi. Equally, my appreciation goes to the staff of the United Nations system and the many bilateral and multilateral donors who also contribute in a major way to the peace process and the continuation of its progress.



Map No. 4222 Rev. 3 UNITED NATIONS
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Department of Peacekeeping Operations
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United Nations A/59/732–S/2005/150

General Assembly
Security Council

Distr.: General
9 March 2005

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General Assembly
Fifty-ninth session
Agenda item 53
Question of equitable representation on and increase in the membership of the Security Council and related matters

Security Council
Sixtieth year

Letter dated 7 March 2005 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the Secretary-General

I would like to draw your attention to the fact that Japan is attempting to do its utmost to occupy a permanent seat on the Security Council of the United Nations.

Japan's permanent membership of the Security Council cannot be tolerated at all as it contravenes the main mission of the United Nations, considering its past crimes against humanity, today's revival of its militarism and threats to its neighbouring countries.

Japan has committed tremendous crimes against humanity.

In Korea only, Japan forcibly drafted and abducted 8.4 million, massacred 1 million and forced 200,000 women into sex slavery for the Japanese army, dragging them to the battlefields, and plundered natural resources and cultural assets. Japan also committed most heinous destruction, plunder and homicide everywhere in Asia it invaded.

Even 60 years after its defeat, Japan has not liquidated its sanguinary and ignominious past crimes, but is resurrecting militaristic hallucination, turning its whole society to the right, with a view to realizing the old dream of "great Asia co-prosperity sphere".

Japan is arming the young generation ideologically and mentally to repeat past crimes by beautifying its war of aggression as a war of liberation for the Asian countries. Cabinet ministers are regularly visiting the "Yasguni shrine" to pay tribute to war criminals to inspire its people with militaristic ideas, despite the strong protest and opposition of Asian countries.

Japan has serious security problems with its neighbouring countries and poses a substantial threat to the north-east Asia region.

05-26287 (E) 110305

Japan has officially designated as threats its geographically closest neighbours, including the Democratic People's Republic of Korea, which it occupied and on which it forced agony and humiliation in the first half of the twentieth century, and is accelerating war preparations, on the pretext of preventing the threats.

Today, Japan has the second largest military expenditure after the United States and is stepping up readiness for overseas invasion by modernizing and repositioning its military equipment.

Especially, it has completed the drafting of an "emergency law" setting the Democratic People's Republic of Korea as its main target, and hastens the formation of combat troops of "self-defence forces" for the realization of the western priority strategy in case of emergency on the Korean peninsula, while its high-level officials are openly making belligerent remarks about a pre-emptive attack against the Democratic People's Republic of Korea.

Liquidation of past crimes is the essence of the Pyongyang Declaration adopted in 2002 by the Democratic People's Republic of Korea and Japan. This notwithstanding, Japan incites hostile awareness against the Democratic People's Republic of Korea, creating an anti-Democratic People's Republic of Korea atmosphere in its society in the context of "abduction and nuclear issues".

Japan is not only crying recklessly for pressure to bring the Democratic People's Republic of Korea to its knees, but also practically moving to economic sanctions to stifle the Democratic People's Republic of Korea, in collaboration with the United States.

At the same time, extreme right-wing forces in Japan are making territorial claims to Tok Islet, a Korean territory, publishing postage stamps and conducting a mock raid on it, rousing fears that it may use this for invasion of Korea at any time.

I could not but express concern over the fact that Japan is demanding its right to a permanent seat on the Security Council for its contribution to the United Nations budget, and some countries are leaning to support it for its purse.

The United Nations is not a financial corporate company where votes are weighted according to the contribution, but a political organization of peace and security based on sovereign equality. Permanent seats are not to be bought and sold.

In order for Japan to honestly contribute to the prosperity of mankind, it should sincerely reflect on its past crimes, make adequate compensation and show its firm commitment to the international community not to repeat the past again.

Japan was branded an "enemy state" when the United Nations was founded on the ravages of the Second World War. If the international community permits Japan to occupy a permanent seat, even though it has not liquidated its past crimes, world history will no longer advance, particularly in the north-east Asian region, and humanity suffer another holocaust.

Since Japan has neither sincerely reflected on its past, nor compensated, but poses a threat to north-east Asia, I would like to reiterate that Japan cannot become a permanent member of the Security Council, which deals with global peace and security, and that the Democratic People's Republic of Korea strongly opposes any expansion of the Security Council which includes Japan's membership.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda item 53, and of the Security Council.

(*Signed*) **Pak** Gil Yon
Ambassador
Permanent Representative

United Nations S/2005/151

Security Council

Distr.: General
9 March 2005

Original: English

Letter dated 4 March 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1565 (2004) of 1 October 2004, by which the Council renewed the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 31 March 2005.

Following the usual consultations, I have the honour to inform you that it is my intention to appoint Lieutenant General Babacar Gaye (Senegal) as Force Commander of MONUC. Lieutenant General Gaye will replace Major General Somaila Iliya (Nigeria), who completed his assignment on 28 February 2005.

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

05-26377 (E) 090305

United Nations S/2005/152

Security Council

Distr.: General
9 March 2005

Original: English

Letter dated 4 March 2005 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 4 March 2005 (S/2005/151) concerning your intention to appoint Lieutenant General Babacar Gaye (Senegal) as Force Commander of the United Nations Organization Mission in the Democratic Republic of the Congo has been brought to the attention of the members of the Security Council. They take note of the intention expressed in your letter.

(*Signed*) Ronaldo Mota **Sardenberg**
President of the Security Council

05-26365 (E) 090305

United Nations S/2005/153

Security Council

Distr.: General
9 March 2005

Original: English

Letter dated 8 March 2005 from the Chairman of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia, and in accordance with paragraph 3 (e) of Security Council resolution 1558 (2004), I have the honour to transmit herewith the report of the Monitoring Group on Somalia.

In this connection, the Committee would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Lauro L. **Baja**, Jr.
Chairman
Security Council Committee established pursuant
to resolution 751 (1992) concerning Somalia

05-23620 (E) 110305

Enclosure

Letter dated 14 February 2005 from the members of the Monitoring Group on Somalia addressed to the Chairman of the Security Council Committee established pursuant to resolution 751 (1992)

We have the honour to transmit herewith the report of the Monitoring Group on Somalia in accordance with paragraph 3 (e) of Security Council resolution 1558 (2004).

(*Signed*) John E. **Tambi**
Coordinator
Monitoring Group on Somalia

(*Signed*) Melvin E. **Holt**, Jr.

(*Signed*) Changsheng **Li**

(*Signed*) Joel **Salek**

Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1558 (2004)

Contents

		Paragraphs	Page
	Summary		4
I.	Introduction	1–7	5
	A. Mandate	1–5	5
	B. Methodology	6–7	6
II.	Overview of the arms embargo violations during the mandate period	8–18	6
	A. Arms	8–11	6
	B. Transport	12–14	7
	C. Finance	15–16	7
	D. Customs	17–18	8
III.	Analysis of the trends and patterns of arms embargo violations	19–81	8
	A. Arms flow into Somalia	19–29	8
	B. Military training camps	30–33	10
	C. Organized criminal groups	34–45	11
	D. Bakaaraha arms market	46–48	13
	E. Role of finance, transport and customs	49–81	13
IV.	Examples of arms embargo violations	82	19
V.	Coordination with neighbouring States and regional and other organizations	83–99	22
	A. Neighbouring States	83–86	22
	B. Regional and other organizations	87–99	23
VI.	Conclusions and recommendations	100–119	26
	A. Conclusions	100–105	26
	B. Recommendations	106–119	27
Annexes			
I.	Evidentiary standards and verification process		30
II.	Arms purchases and sales at the Irtogte arms market during the mandate period		31
III.	Questions submitted to the Government of Yemen		33

Summary

Pursuant to paragraph 3 of Security Council resolution 1558 (2004) of 17 August 2004 concerning Somalia, the Secretary-General re-established the Monitoring Group on Somalia composed of four experts for a period of six months.

The Monitoring Group learned that arms embargo violations had continued to occur at a brisk and alarming rate. The Monitoring Group uncovered 34 individual arms shipments or violations of the arms embargo from February 2004 to the time of writing the present report. The shipments ranged in size from an individual weapon such as a large and expensive anti-aircraft gun to ocean freight containers full of arms, ranging from explosives and ammunition to small arms, mines and anti-tank weapons.

The demand for financial sources by major parties to the conflict in Somalia to fund the arms purchases has soared, along with the arms prices. Information developed by the Monitoring Group indicates the existence of a sophisticated financial network operating inside and outside Somalia that may be directly involved in arms purchases.

Recent arms shipments have strengthened the military capacity of opposition elements inside Somalia. They are well organized and funded and have publicly expressed their intent to violently oppose the Transitional Federal Government and any international supporters that may provide military support inside Somalia.

In addition, the Bakaaraha arms market inside Somalia, particularly in Mogadishu, and the arms market in the neighbouring Gulf State continue to play central roles as sources of arms that fuel violent clashes and remain an obstacle to peace and stability in Somalia. These markets are also a main cause of the many arms-related problems in the front-line States.

With an increasing number of arms embargo violations, the trend has continued to rely less on air transport to ferry the illegal arms shipments. Instead, ocean transport of clandestine arms shipments, in conjunction with road transport, has been the predominant means by which arms are delivered to purchasers in Somalia.

The Monitoring Group has investigated arms shipments that were offloaded from container ships at a neighbouring country's seaport and transported to Somalia by a combination of road and dhows. Organized criminal groups involved in the clandestine movement of arms shipments from source to recipient have consistently circumvented customs and police authorities of various States responsible for interdicting illegal arms shipments.

As a result of the continued heavy flow of arms into Somalia, most of which has been directed to those elements opposed to the Transitional Federal Government, there is a seriously elevated level of threat of possible violence against the peaceful establishment in Somalia of the Transitional Federal Government.

In paragraph 3 (b) of its resolution 1558 (2004), the Security Council requested the Monitoring Group to continue refining and updating information on the draft list of those who continue to violate the arms embargo inside and outside Somalia, and their active supporters, for possible future measures by the Council, and to present such information to the Committee as and when the Committee deems appropriate. The Monitoring Group has, pursuant to its mandate, provided the Committee with the draft list on a confidential basis for the Committee's consideration.

I. Introduction

A. Mandate

1. In paragraph 3 of its resolution 1558 (2004) of 17 August 2004, the Security Council conferred the following mandate on the Monitoring Group on Somalia:

(a) To continue the tasks outlined in paragraph 2 (a) to (d) of resolution 1519 (2003): (i) To investigate the violations of the arms embargo covering access to Somalia by land, air and sea; (ii) to identify information and make specific recommendations in relevant areas of expertise related to violations and measures to give effect to and strengthen the implementation of the arms embargo in its various aspects; (iii) to carry out field-based investigations in Somalia, where possible, and in States neighbouring Somalia and other States, as appropriate; and (iv) to assess the progress made by the States in the region to implement fully the arms embargo, including through a review of national customs and border control regimes;

(b) To continue refining and updating information on the draft list of those who continue to violate the arms embargo inside and outside Somalia, and their active supporters, for possible future measures by the Council, and to present such information to the Committee as and when the Committee deems appropriate;

(c) To continue making recommendations based on its investigations, on the reports of the Panel of Experts (S/2003/223 and S/2003/1035) appointed pursuant to resolution 1425 (2002) and 1474 (2003), and on the first report of the Monitoring Group (S/2004/604);

(d) To work closely with the Committee on specific recommendations for additional measures to improve overall compliance with the arms embargo;

(e) To provide the Council, through the Committee, with a mid-term report and a final report covering all the tasks set out above.

2. The Monitoring Group was based in Nairobi and comprised the following experts: John E. Tambi (Sierra Leone), transport (air, land and sea) expert and coordinator; Melvin E. Holt, Jr. (United States of America), arms expert; Changsheng Li (China), customs expert; and Joel Salek (Colombia), finance expert. The Group was assisted for most of the mandate period by an arms consultant: Bruno Schiemsky (Belgium).

3. The Monitoring Group travelled in the region when it was deemed necessary, and visited areas of concern in Kenya. It also travelled to Europe and the United States of America.

4. Throughout the period of its mandate, the Monitoring Group kept the Security Council Committee established pursuant to resolution 751 (1992) apprised of its activities by submitting progress reports every two weeks through the United Nations Secretariat.

5. The Monitoring Group received much-appreciated support and assistance from the United Nations Secretariat and other United Nations agencies, in New York, Europe and the region.

B. Methodology

6. In accordance with its mandate, the Monitoring Group focused on continued violations of the arms embargo, and the refinement and development of the draft list of violators from the beginning of the period of the mandate up to the time of the writing of the present report (September 2004-February 2005). Special emphasis was placed on the initiators of the violations, and the chain of individuals, organizations and agents involved in the violations. To accomplish this, a case study model approach was developed and used for all the investigations of arms embargo violations. The model called for the collection of pertinent information leading to a plausible case of arms embargo violations, under the circumstances of the Group's investigations. The case study model essentially followed the chain of events for each violation: the buyers of weapons and ammunition and their associates, the sellers and the middlemen involved in the transactions, the shipment and the shipping companies involved, the other modes of transport used and the companies involved, and the means and methods of payment for the arms and weapons. Specific case studies were developed for each incident of violation and the respective chain of network.

7. The reports of the two Panels of Experts and the previous report of the Monitoring Group (S/2003/223, S/2003/1035 and S/2004/604, respectively) were also taken into consideration during the investigations. The evidentiary standards and verification process that were developed during the last mandate, and which were clearly outlined in the Group's previous report (S/2004/604) were also used for the investigations during the present mandate. The evidentiary standards and certification process, in addition to new verification standards, are set out in annex I to the present report.

II. Overview of the arms embargo violations during the mandate period

A. Arms

8. During the current mandate, the Monitoring Group investigated violations of the arms embargo in terms of shipments of arms into Somalia that went directly to the intended recipients and shipments of arms that went into and through the Bakaaraha arms market, especially the Irtogte market located in Mogadishu.

9. The Monitoring Group has determined that arms flows continued at an alarming rate and in large quantities during the reporting period. The Monitoring Group uncovered 34 individual arms shipments or violations of the arms embargo. The shipments ranged in size from an individual weapon, such as a large and expensive anti-aircraft gun, to ocean freight containers full of arms, ranging from explosives and ammunition to small arms, mines and anti-tank weapons. It is important to note that most of the shipments consisted of quantities of numerous types of arms versus a single weapon.

10. Many parties were engaged in the arms transactions. They included individuals from the Transitional Federal Government as well as individuals and groups from the opposition, such as traders, businessmen, warlords and fundamentalists whose vested interests would be negatively affected if the Transitional Federal Government

were to be established in Somalia. Organized networks of traders, smugglers and transnational criminal groups have been identified as facilitators and conduits for most of the arms shipments involved in the arms embargo violations. Some of the shipments originated in Europe, Asia and the Middle East. The predominant means of transport of the arms were by large, ocean-going freighters, dhows and surface vehicles through the local road networks in the neighbouring States and Somalia.

11. Information, including pictures, in the possession of the Monitoring Group clearly indicates that approximately 17 military training camps have been established by al-Ittihad. One of the al-Ittihad leaders, Sheikh Hassan Dahir Aweys, is responsible for overseeing all military training that takes place in these camps. There has been an ongoing recruitment of personnel who form the basis of the military force, and constitute the al-Ittihad's de facto army.

B. Transport

Air

12. Despite the growing number of cases of arms embargo violations, the trend of relying less on air transport to facilitate the transportation of arms in violation of the embargo seems to have continued during the current mandate period. This trend is also in line with the general decrease in air traffic over the Somali airspace during the mandate period. During the period, there were no suspected aircraft movements involving arms embargo violations in the Somali airspace or at the Somali airports.

Sea

13. Encouraged by the relative ease with which goods can be transported by sea and its cost effectiveness, sea transport has become the choice for the continued violations of the arms embargo.

Land

14. The traditional border/crossing points along the Somali borders with its western and southern neighbours constitute an important element in the arms embargo violations. In Somalia, the road transport network plays a very crucial role in transporting arms to the Bakaaraha arms market. Except in special cases, almost all arms movements within Somalia are by road. Arms and weapons are usually transported along the main road from Boosaaso in the north, through Gaalkacyo to Mogadishu. Similarly, they are also trucked via road to Kismaayo and other areas within Somalia.

C. Finance

15. There has been an increasing demand for funds during the current mandate period. However, sources required by warlords and factions to fund their operations remain basically the same: illegal charcoal exports, illegal currency printing and revenue from ports are examples of funds currently supplying some of the warlords opposing the Transitional Federal Government, particularly in the south-eastern region of the country. In addition, other sources, such as looting, school and university fees and fund-raising, are becoming more prevalent in this area.

16. The means to move funds are dynamic, constantly shifting and on occasions operating under the umbrella of legal businesses or financial networks. The networks that allow some Somali warlords to channel funds for the procurement of arms comprise businesses operating in diverse economic sectors in trade, telecommunications, air transportation and money remittance services in Somalia and abroad.

D. Customs

17. Regional and international customs organizations are paying increasingly more attention to the regional arms crisis. The United Nations and the international community would be well advised to react to the positive reception of the regional customs authorities and take practical steps towards assisting the regional law enforcement agencies in better implementing the United Nations arms embargo on Somalia.

18. In October 2004, the customs expert of the Monitoring Group addressed a meeting of regional customs intelligence/national contact persons for East and Southern African countries, drawing attention to the United Nations arms embargo. As for the joint efforts with other law enforcement officials, Interpol officers present at the meeting expressed willingness to cooperate with customs border enforcement to investigate and conduct joint operations with the aim of eliminating the cross-border arms flows.

III. Analysis of the trends and patterns of arms embargo violations

A. Arms flow into Somalia

19. Information, documents and pictures obtained by the Monitoring Group on indicate that despite the newly elected Transitional Federal Government or, perhaps, because of it, arms embargo violations continued to occur at a brisk and alarming rate during the mandate period. The Monitoring Group determined that about 67 individuals, companies and entities (the "commercial chain") were witting or unwitting parties to the arms transaction process.[1]

20. Opposition elements consisting of warlords, businessmen, fundamentalists and others are arming and training themselves in reaction to the anticipated arrival in Somalia of the newly elected Government. The opposition elements inside Somalia may be preparing for a violent engagement with the Transitional Federal Government subsequent to its arrival in Somalia in order to protect certain vested interests.

21. The main interest of the businessmen and warlords in the opposition is to protect their unregulated commercial activities in their respective spheres of control and influence that generate profits for them. These activities include: commerce in

[1] A commercial chain generally consists of buyers (recipients) and associates (individuals and organizations), sellers and middlemen, the shipment itself, transport and finally the means and methods of payment.

consumer goods that are brought into Somalia via seaports along the Somalia coast, the export of charcoal and agricultural products, revenues generated from drug trafficking and revenues generated from the collection of "taxes" and the sale of arms, especially via the Bakaaraha arms market at Irtogte in Mogadishu.

22. Fundamentalists, such as al-Ittihad, the shariah courts and al-Islah, aim at ultimate control of the people and territory of Somalia. Al-Ittihad, for example, wants to use its military power against the Transitional Federal Government to impose shariah law on Somali society. The position of al-Ittihad versus the Transitional Federal Government is one of non-negotiation. It intends to fight by using the guerrilla tactics of hit-and-run and ambush. Al-Ittihad has announced that the Transitional Federal Government is not acting according to shariah law. It also believes that the Transitional Federal Government will attempt to destroy it along with the shariah courts, and therefore it has no alternative but to fight. The shariah courts oppose the Transitional Federal Government and the new constitution, as they believe that it is being supported and manipulated by foreign countries that they consider "infidels".

23. The leadership of the shariah courts is reportedly also of the opinion that the first priority of the Transitional Federal Government would be to neutralize the courts. Therefore, they are continuing to buy weapons. Their latest shipment, on 3 January 2005, consisted of 10 PKM machine guns and a variety of ammunition and anti-tank mines, from the Bakaaraha arms market at Irtogte. They also continue to train their militia and are making a mass appeal to Somali civil society for religious-based opposition to the Transitional Federal Government. The appeal to religious-based opposition is an attempt to undercut the traditional clan-based system.

24. All opposition elements would like to pursue their respective activities freely to obtain maximum benefit without government imposed interference and regulations. Each opposition element is concerned with the impact on their respective vested interests if the Transitional Federal Government is successful in establishing itself in Somalia.

25. On the other hand, the interests and activities of the Transitional Federal Government are twofold:

(a) The purchase of arms by individuals to build a military capability against the perceived militarily hostile threat of the opposition, especially al-Ittihad and the shariah courts. The Transitional Federal Government has acknowledged that it cannot return to Somalia until it receives adequate physical "protection" inside the country;

(b) The purchase and sale of arms by individual members of the Transitional Federal Government to protect their respective interests, be they commercial, i.e., arms trade, drug trafficking, "taxes" and other revenue collections, etc., or to protect their warlord strongholds in Somalia.

26. For all sides — the Transitional Federal Government, some individual members of the Transitional Federal Government and the opposition — the purchase and acquisition of arms continue to represent the most conspicuous option for the realization of their respective self interests, be they political, religious/political or commercial or a combination of all. Thus, the perception is that the solution to their respective problems remains the gun.

27. The Monitoring Group determined that the types of arms purchased and sold included the following: AK-47 assault rifles, ammunition and magazines, PKM machine guns and ammunition, SG-43 medium machine guns, RPG-7 anti-tank weapons and ammunition, M-79 grenade launchers, Zu-23 anti-aircraft weapons and ammunition, B-10 anti-tank weapons and ammunition, ZP-39 anti-aircraft ammunition, 60 mm/82 mm/120 mm mortar shells, anti-tank mines (e.g., PMP-4), BM-21 multiple rocket launcher ammunition, anti-personnel mines, hand grenades (e.g., RG-4, POMZ-2) and TT-33 Tokarev pistols.

28. The Monitoring Group noted with special interest that the flow of arms also included large quantities of raw/high explosives, detonators and timers. Military equipment in the form of night vision devices was also part of a shipment of arms to a warlord located in Mogadishu.

29. Arms shipments during the current mandate period have primarily gone to al-Ittihad, the shariah courts and businessmen associated with either of them, including Abukar Omar Adaan and Bashir Raage. They have received a wide variety of arms, including the following: high explosives, mines, hand and rifle fired grenades, AK-47 assault rifles and ammunition, hand guns, different types of machine guns (PKMs and SG-43s), RPG-7 and B-10 anti-tank weapons and ammunition and Zu-23 anti-aircraft guns and ammunition.

B. Military training camps

30. Al-Ittihad and its allies have been receiving and stockpiling weapons and conducting military training. The Monitoring Group has obtained information and pictures of some of their training activities and weapons in storage at the facilities. Seventeen training camps have been identified and are under the overall control of the principal al-Ittihad leader, Sheikh Hassan Dahir Aweys. They have various locations throughout central and southern Somalia: two camps in Dhoobley, one in Sablaale, six in Gaalkacyo (south), five in Mogadishu and three in Raschiamboni. The operations at the camps at Raschiamboni are overseen by another key al-Ittihad leader, Hassan Turki, who coordinates military training activities with the principal leader referred to above.

31. The training camps are well organized and supported with money and military supplies. Each camp provides a special type of military training. For example, the camps in Dhoobley give basic infantry training, and at Sablaale the speciality is heavy weapons and guerrilla tactics. Recruits undergoing training in the camps wear new military-style fatigues and train with a variety of weapons, such as PKM machine guns, AK-47 assault rifles, mortars, anti-aircraft and anti-tank weapons. As the training camps are mobile, they can be moved around to avoid unwanted attention.

32. The principal leader, Sheikh Hassan Dahir Aweys, has also been one of the key recipients of the arms shipments, including high explosives, which have been identified by the Monitoring Group during the current mandate period. He has a staff of officers who run and oversee the day-to-day operations at the camps. The same officers rotate from camp to camp to avoid establishing close relationships with the recruits undergoing military training at the camps.

33. Heavy weapons are also rotated among the camps as required for training purposes. Two nationals from Afghanistan are reported to be providing various kinds of military training at different camps and, again, function under the general direction of Sheikh Hassan Dahir Aweys. It is also reported that Yemeni nationals provide instructions on the use of heavy weapons that were purchased from the arms market in Yemen. Other staff members of the same al-Ittihad leader are computer engineers located in Mogadishu, who are responsible for encrypting his communications.

C. Organized criminal groups

34. Organized networks of traders, smugglers and transnational criminal groups continue to be used by the recipients of the arms shipments to clandestinely facilitate the movements of the arms from their sources outside Somalia into and around the country.

35. Organized criminal groups in the context of the Somalia arms embargo violations have been able to circumvent the official security and regulatory systems of various national Governments, such as customs and police authorities of front-line and regional States that are designed to detect and neutralize criminal activities.

36. The organized criminal groups are also apparently able, for the most part, effectively to move around the monitoring and interdiction task forces operating in the region. They are capable of clandestinely and successfully moving arms to the intended recipients because the individuals who constitute the networks use a variety of techniques to reduce the likelihood of being discovered and stopped.

37. The organized criminal groups, of which the Monitoring Group has identified two local and two transnational criminal groups, have existing infrastructure or clandestine pathways to move the arms from source to recipient. The two transnational criminal groups are sophisticated and operate internationally. One of the groups has a network of people that operate primarily in a geographical area that includes Western Europe, the Arabian peninsula, the Gulf of Aden and the Horn of Africa. The other group has a network of people that operates in an area that includes eastern and south-eastern Asia, Southern Africa, the eastern coast of Africa and the Horn of Africa. Both groups use the commercial shipping lines of the Indian Ocean.

38. Both groups are interconnected through a common sub-set of people who are located in the south-eastern coastal area of the Horn of Africa and whose role includes coordinating the final stage of delivery of the arms to their intended recipients in Somalia. Both groups employ a wide range of techniques to successfully accomplish the delivery of the arms to Somalia despite the arms embargo.

39. These techniques include bribery of government officials, falsification of transport and identity documents, concealment of contraband arms in ships, dhows and land transport vehicles, and businesses controlled or utilized via employees by network members, protection, counterfeit currency and drug operations. The two transnational criminal groups also use the existing international maritime shipping lines and port facilities. Both groups deal in explosive-making materials, ammunition, small arms and anti-tank weapons such as the RPG.

40. The local criminal groups consist of two distinct groups of traders and smugglers. One of the groups has a network of people who operate in the geographic area that includes south-western Somalia: the Gedo region, the territory along the Somali-Ethiopian border, Kismaayo and Mogadishu. They specialize in the clandestine trade and transport of high/raw explosives (explosive-making materials, e.g., granules and C-4, as opposed to prepared munitions, such as mortar bombs, mines, and other munitions).

41. What follows is a more detailed explanation of the operations of this group: they deal in different types of landmines (TM-46 and TM-57), which are reportedly being sold on a regular basis to the group by Ethiopian military officers. In addition, the group obtains mines from areas located in the Gedo region. Mines collected in the field are typically transported by donkey carts. The mines obtained from both sources are stockpiled in at least four concrete bunkers located in the Bulahaawo area. Bulahaawo is a town in Gedo region near the Kenyan town of Mandera and near the border with Ethiopia. At 20 November 2004, there were a total of 346 mines — a combination of TM-46 and TM-57 — stored in the four bunkers.

42. The mines are stripped of their explosive contents in workshops in Bulahaawo. The trading network extracts the explosives from the mines and loads the explosives into 50 kilogram bags for sale. The processed explosives sell for a range of prices, depending on the location of the sale, up to US$ 100 per kilogram.

43. The explosives are transported by lorry by one of two land routes to Kismaayo. One route goes from Bulahaawo through Garbahaarrey, Baardheere, Bu'aale, Jilib and Jamaame to Kismaayo. The second route goes from Bulahaawo through Luuq, Diinsoor, Saakow, Bu'aale, Jilib and Jamaame to Kismaayo. In Kismaayo the explosives are sold to the network's largest purchaser, a key al-Ittihad leader in charge of al-Ittihad's stronghold in Raschiamboni. He then transports the explosives, typically by boat, to the Mogadishu area, to the same al-Ittihad leader who is in charge of the military training camps.

44. The network trades, on an ongoing basis, in the explosives openly by falsely professing in public that the explosives are used exclusively for blasting rocks and quarries to obtain building materials.

45. The other local criminal group has a network of people who operate primarily in a geographic area that includes the southern part of the Arabian peninsula, the Gulf of Aden, Somalia ("Puntland" — the seaport of Bossaaso — and the Bakaaraha arms market in Mogadishu). The group deals chiefly in ammunition, small arms and heavy weapons (anti-aircraft and anti-tank weapons). They are transported by dhow and byroad. The group's activities in terms of smuggling and operations are historically well established. They have been supplying the Bakaaraha arms market at Irtogte in Mogadishu for a number of years during the arms embargo.[2]

[2] Some aspects of the operations of the Bakaaraha arms market were covered in the previous report of the Monitoring Group (S/2004/604).

D. Bakaaraha arms market

46. The Bakaaraha arms market at Irtogte plays a central role in the arms transactions that were uncovered by the Monitoring Group during the current mandate (see also S/2004/604, para. 43). Arms deliveries to Irtogte are increasing and prices for arms have risen sharply owing to high demand. Of the 34 arms shipments identified by the Monitoring Group, 21 transactions were conducted through the Bakaaraha arms market, which reaffirms the central role it plays in the arms trade and in arms embargo violations in Somalia.

47. Arms transactions occurred at the Irtogte market with both sides during the current reporting period. To some of the members of the Transitional Federal Government, the arms transaction was purely for personal financial gain, since they have had regular and historical commercial ties with the arms market.

48. A number of individuals used the medium of the Bakaaraha arms market either to sell or to buy arms that were brought into Somalia in violation of the arms embargo. Selected details of arms transactions investigated by the Monitoring Group that were completed through the Irtogte arms market, with particular attention being paid to the recipient end of the commercial chain of this group's operations during this mandate period, are reflected in annex II to the present report.

E. Role of finance, transport and customs

1. Finance

Illegal charcoal exports and port revenues in Kismaayo

49. Revenues obtained from the illegal charcoal exports and port revenues in Kismaayo are considerable. It is reported that a group that is opposed to the Transitional Federal Government and in control of some of the forest in the Juba Valley region in Somalia is a key player in this business. Approximately, 10,000 metric tons of charcoal are being exported from Somalia every month. Large quantities of land, forest and farms are being cut and turned into charcoal. For example, during October 2004, 13,133 metric tons of charcoal were reportedly exported from Kismaayo to businesses in the United Arab Emirates and Saudi Arabia. Conservative estimates indicate that the average price per ton is $240. Revenues generated out of this single operation were as much as $3,151,920.

50. Profits for this operation were not used for the benefit of ordinary Somalis living in the area. Rather, they were used to mobilize militias and to purchase arms. The illegal exploitation of Somali forests has had a tremendous negative environmental impact. Forests and bushes give essential protection to the soil, providing shelter from wind, rain and sun. The indiscriminate use of pesticides also contaminates water resources, directly affecting human communities and livestock. During the past decade, the country's limited forests have decreased at an alarming rate. Much of this is due to the deforestation of the country's remaining woodland as a consequence of the clear cuttings caused by the illegal charcoal trade bonanza.

51. The Juba Valley Alliance currently controls the Kismaayo seaport and derives revenue of approximately $500,000 per month from the port operations. Of that

amount, $112,000 derives from import "taxes", $308,000 from export "taxes" and $57,000 from berth "taxes".

Increased illegal printing of Somali shillings

52. Counterfeit Somali shillings are being printed in Mogadishu and, allegedly, in Nairobi. The printing process has moved away from the Asian countries to these cities. In early October 2004, during and immediately after the election of the Transitional Federal Government, the exchange rate of the illegal currency appreciated from 25,000 to 18,000 shillings to the United States dollar. In some regions of the country, such as "Puntland", the exchange rate topped 13,000 shillings to the United States dollar.

53. Exchange rate fluctuations are due in part to the increasing influx of counterfeit currency, the printing of which is reported to be continuing. Individual requests vary from 50 million to 500 million shillings per day, equivalent to $2,000 to $20,000 (calculated at an exchange rate of 25,000 shillings to the United States dollar). It appears that both members of the Transitional Federal Government and the opposition are engaged in the printings. The Government is interested in having enough financial capacity before moving to Somalia, while the latter needs more funds to support its increasing military activities.

54. In Mogadishu, the printing is said to take place in the Huruwa area. In Nairobi, the printing is carried out in the Eastleigh section, although it appears that the activity does not remain fixed at the site. For example, during the second week of January 2005, a khat trader placed an order to print 500 million counterfeit shillings ($20,000). The demand was declined by the "printers" owing to the small sum of money requested and in view of the fact that the clients were asking to print the equivalent of 30,000 shillings per United States dollar, when the "printers" were offering 25,000 shillings to the United States dollar.

55. Apparently the same "printers" are reported to have in stock illegal shillings worth about $2 million. They smuggle the currency into Somalia from Kenya, wrapped in bundles and concealed in boxes, and transport it in old buses from Nairobi to Garissa and Liboi, Kenya, and then to Dhoobley in Somalia. Once in Somalia, the illegal currency is finally delivered to Kismaayo and Mogadishu.

Looting

56. Every time there is a clash among factions in Somalia, looting inevitably takes place. Although the value of the goods is not large compared with that which is accrued from well-organized illegal businesses, its impact affects the operation of hundreds of small legal businesses, families and workers. In many cases the practice has been perpetuated on behalf and in support of a well known warlord engaged in confrontations. During the lootings, almost anything of value is fair game and includes clothing, cash from foreign exchange currency businesses, drugs from pharmacies, mobile phones and powdered milk. The amounts vary from a few United States dollars to over $1,000 worth of shillings for each occasion.

57. An example can be used to illustrate the above. On 11 September 2004 four vehicles carrying about 100 militiamen allegedly loyal to the coalition headed by Sheikh Yusuf Mohamed Said Indohaade, which supports the Juba Valley Alliance, headed by Colonel Barre Hirale, rushed into Wadajir and reportedly looted eight

private homes, a medical store, the medical centre post run by Kisima and the primary school. Six days later, the same coalition plus reinforcement forces from the Lower Shabeellaha and some other militia groups met with the Juba Valley Alliance in Dhoobley, located 200 kilometres north of Kismaayo, in order to support confrontation against the militia of General Mohamed Said Hersi "Morgan". The coalition assisted the Juba Valley Alliance in defeating General Morgan's loyalists. At that time, many businesses were looted. Among the stolen goods were machines taken from a telecommunication business.

Donations, educational fees and fund-raising

58. Funds for al-Ittihad in the Lower Shabeellaha are said to be obtained, on occasions, from some charities or non-governmental organizations. At least twice a year, large amounts of money donated by organizations in the Gulf States that support charities and schools in Somalia, in particular in Mogadishu, are being diverted. Information indicates that one prominent individual in Kismaayo, apparently the treasurer of an organization in the Lower Shabeellaha, has recently received funding from donors in the Gulf States. In some cases, the diversion of funds is attributed to poor or improperly audited programmes. Transporting large amounts of money is simple, usually carried by passengers on flights to Somalia.

59. In addition to its military capability, al-Ittihad is a powerful economic force in southern Somalia. It is reported that al-Ittihad owns some schools and universities in Mogadishu and in other areas in southern Somalia. It apparently collects $300 every three months for each student. A large part of this money is donated by organizations in the Gulf States. It is estimated that about 100,000 students benefit from these donations. Therefore, the income generated by this source for al-Ittihad is considerable. Another source of income for al-Ittihad is fund-raising. For example, a fund-raising event that took place in Kismaayo during the second week of October 2004 raised about $30,000.

Financial networks

60. In addition to the arms obtained at the local markets in Somalia, a well-organized network allegedly supports trafficking operations that allow some warlords to bring arms into the country. The process can be outlined as follows. A Somali warlord places an order to "import" arms into Somalia. There is a financier, a Somali middleman, who has the support of and access to businesses strategically located in trade, telecommunications, air transportation, money transfers and businesses with branches in Somalia and foreign countries. On some occasions the middleman appears to be the chairman of several of those businesses.

61. With the order in place, the middleman requests a line of credit, which can be of up to $10 million. When the funds are approved, a letter of credit is opened in a bank. The description of commodities to be purchased in this operation may appear as food, home appliances, computer parts, car parts or telecommunications devices.

62. In Somalia the warlord will repay the middleman using the services of an alternative remittance business dealer or broker (hawaladar) who may also be part of the network or economic group. The hawaladar in Somalia receives the money in hard currency, mostly United States dollars, and makes the relevant transfer to the corresponding foreign hawaladar office. Then the middleman withdraws the money

from the hawala branch and deposits it in the bank where the letter of credit was originally opened.

63. In order to reduce any suspicion that may arise concerning the operation, the middleman provides government authorities (ports, customs) and banks with copies of transportation documents (bill of lading, cargo manifest, etc.) and invoices, using the information and descriptions mentioned above, to demonstrate the legitimacy of the procedure. Arms shipments using a trans-shipment point before routing to Somalia are likely to occur. Arms traffickers take advantage of the fact that authorities are more focused on the merchandises imported to their own countries. Owing to the high volume of cargo and following the policy of expediting foreign trade, customs inspection rate for trans-shipments cargo are very low.

Transport

64. **Air**. The average number of flights per month over Somali airspace is usually about 2,500. However, during the mandate period this number dropped to 2,300. It is important to note that about 55 per cent of the traffic is overflight traffic, and 20 per cent is khat traffic. About 15 per cent is mainly passenger and cargo traffic operated by scheduled airlines with services to Somalia, mainly from the United Arab Emirates, Djibouti, Ethiopia and Kenya. The rest of the traffic falls under the designation of "humanitarian" flights under the auspices of the United Nations and non-governmental organizations.

65. The reduction in the use of air transport for arms embargo violations during the current mandate period could be attributed to several factors: the strict enforcement of the regulations concerning air transport services from neighbouring Gulf States, the limited financial resources of the warlords, the centralization of the sources of weapons and ammunition, the awareness of the Monitoring Group and its collaboration with the Civil Aviation Caretaker Authority for Somalia for flight operations into and out of Somalia, and the ease and relative cost-effectiveness of using sea transport. During the mandate period, the investigations of the Monitoring Group did not reveal any major arms shipment by air, unlike a trend that was very common during the earlier days covered by the Panel of Experts. However, this does not preclude small quantities of arms coming into Somalia via regular scheduled flights.

66. Civil aviation activities at airports within Somalia are still essentially uncontrolled, especially in the south where airport operations fall under the control of different warlords and businessmen. Even where there is some level of control by "officials" representing a region, aviation activities on the ground still do not necessarily conform to the standards set by the International Civil Aviation Organization. For example, notwithstanding the regulatory and safety oversight authority of the Civil Aviation Caretaker Authority for Somalia, the authorities at Hargeisa airport, which is the busiest airport in Somalia, unilaterally shut down the airport early in 2005 for the resealing of the runway. It is expected that the airport will be open for traffic by the end of February 2005.

67. The airport shutdown was never communicated to the Civil Aviation Caretaker Authority for Somalia, and it is obvious that the work being done does not have the proper aeronautical supervision. This is evidenced by the fact that the airport has been shut down for such a long period. Typically, runway resealing does not necessarily require an airport to be shut down. Given this situation, it is very

difficult to determine what goes on at the airports in Somalia, in particular with regard to the shipment of arms and weapons.

68. As long as an aircraft is able to avoid areas where inspections are stringent or in some way evade proper inspection, it is relatively easy and safe to bring small quantities of weapons or arms into Somalia via aircraft. This is one of the main reasons why stringent inspections of aircraft at airports of neighbouring and regional States for Somali-bound flights are necessary.

69. **Sea**. The Somali coastline is the longest in Africa and is littered with small ports and berthing places with virtually no control, and with complete disregard for international maritime regulations. This coastline is a haven for arms shipment and this is validated by several reported cases of arms embargo violations using the seaports. The Monitoring Group investigated some of these cases during the mandate period. Taking advantage of the traditional coastal trade between the waters of the western Indian Ocean, the Gulf of Aden, the Red Sea and the Persian Gulf, arms embargo violators have now combined this trade with arms shipment and, in some cases, outright arms trafficking by sea.

70. Officially, the major functioning ports in Somalia for deep-sea and major vessels are Berbera, Boosaaso and Kismaayo. The port at Mogadishu is still closed. However, recent investigations have revealed that some of the so-called smaller ports and coastal landing places are also capable of handling some deep-sea vessels. For example, the port of El Ma'an is reported to be capable of berthing about 10 ships of 20,000 tons at a time, and has a throughput capacity of about 8,000 tons per day.

71. The Somali coastline has one of the highest rates of sea piracy in the world. For example, all the 47 incidents of piracy reported for East Africa by the International Maritime Organization (IMO) from 1998 to June 2004 took place in Somali coastal waters. This number reflects only those that are officially reported. Some acts of piracy and outright banditry on the high seas along the Somalia coastline involving some foreign registered ships go unreported, especially after ransoms have been paid to Somali bandits.

72. The increased sophistication of traditional wooden dhows compounded by their lack of regulation and proper registration (at least in Somalia) has made them the mode of choice for arms embargo violators, in particular for arms originating from a neighbouring Gulf State. Most dhows used for arms shipment are motorized, equipped with the Global Positioning System and other sophisticated navigation and maritime instruments. Whereas in the past most dhows were considered large when their cargo capacity was up to 1,000 tons today most of the dhows used in arms shipments have a cargo capacity of up to 5,000 tons. Some of the larger dhows are foreign-owned and not registered in Somalia. They usually sail without a proper cargo manifest, crew list or other regulatory documents.

73. Owing to their traditional nature of coastal trade and the perception that dhows are used primarily for fishing, some of these vessels have been able to escape the monitoring of the Combined Joint Task Force — Horn of Africa stationed along the Djibouti coast. After the mandatory requirements by the International Maritime Organization (IMO) that all ports should comply with International Ship and Port Facility Security Code by the end of July 2004, the berthing of large vessels at the Somalia ports has become very challenging, expensive and risky because Somalia

has not complied with these requirements. Technically, no "legal" insurance coverage can be provided for ships calling at Somalia ports.

74. To overcome the above problems, arms embargo violators now ship arms in containers directly to a port of a neighbouring State, south-west of Somalia and, with the help of local officials, offload the containers and truck them by road into Somalia. During the mandate period, three cases of such violations were reported and investigated. Some of the shipments involved arms and ammunition coming from outside the region and the surrounding Gulf States. In addition, despite the risks, foreign registered ships continue to call at Somali ports and to be used in violation of the arms embargo. The Monitoring Group is aware of about four such cases during the reporting period. Given the improved capacity of some of the smaller ports, some foreign ships engaged in the charcoal, fruits and vegetable trade are also known to have been used for arms shipments.

75. **Land**. As discussed in section II of the present report, the road network continues to be used effectively for internal arms distribution. During the transportation of weapons and ammunition by road, the vehicles are almost always escorted by a convoy of several militias and "technicals" in pick-up trucks. Advanced notice is given to all warlords and faction leaders who control the road blocks and check-points along the route. This is all part of a protracted network of arms movement deals and it is factored into the overall transportation cost of the weapons. There have been cases where weapons have been looted, confiscated or prevented from passing through by opposing warlords because of insufficient payment in cash or in kind, or because proper arrangements were not in place before approaching the check points.

76. **Customs**. Customs and border enforcement of arms flows needs further improvement to implement effectively the United Nations arms embargo on Somalia. Although customs authorities have shown their political will to cooperate with the United Nations to improve further the arms embargo, worrisome arms flows in the region indicate that circumvention of customs supervision and control to move arms into Somalia requires the regional customs authorities to allocate more resources to deal with this serious customs offence.

77. Some of the methods used by the arms embargo violators to evade customs supervision and control include the following:

(a) Forging customs declaration forms or shipping documents are the most frequent customs offences. It is believed that a certain percentage of arms traffickers use this method to evade customs supervision. Regional customs officers claimed that this method is mostly used by smugglers to circumvent customs control;

(b) Although declarations made by freighters, consignees or shipping agents to customs might be legal, firearms or other contrabands may be concealed in a legal consignment, using different methods to cheat customs;

(c) Using unofficial places to cross border areas is another major way to evade customs inspection and other border enforcement. In the Kenya/Somalia border area, the lack of border enforcement makes illegal arms trafficking a serious problem for both the Government and civilians;

(d) As a normal practice, transit goods are rarely physically inspected by customs officers. Customs officers may conduct a physical inspection only when

they have received information or have sufficient reason to suspect that a certain shipment may be involved in illegal transit.

78. It is clear that information and intelligence are important as customs authorities rely on them to conduct physical inspections of transit shipments. Statistics show that arms seized by customs officials in the East African countries are low when compared with figures for other areas. This can be explained by the fact that arms seizures at border areas are normally joint efforts between customs enforcement and other law enforcement agencies, such as police authorities. The police authorities are sometimes the major sources of the arms seizures statistics.

79. In paragraph 3 (d) of its resolution 1558 (2004), the Security Council mandated the Monitoring Group "to work closely with the Committee on specific recommendations for additional measures to improve overall compliance with the arms embargo". Compared with its previous mandate, the Monitoring Group has focused on the regional measures and actions that can improve the embargo rapidly and effectively. Regional customs enforcement should initially focus on sharing intelligence based on the analysis of the information collected and on operations to prevent illegal arms trafficking.

80. For example, the regional customs network in the East African countries that have been cooperating and consulting with the Monitoring Group, began taking special measures regarding regional operation on the illegal cross-border arms flows early in 2005.

81. Regarding the unique role of customs in border enforcement, it is important to encourage the regional customs authorities to improve their capability in identifying illegal cross-border movements of arms and ammunition. The functions of the World Customs Organization (WCO) and regional customs cooperation in East African countries should be evaluated as equally important.

IV. Examples of arms embargo violations

82. The examples of the arms embargo violations presented below are based on case studies developed by the Monitoring Group. Typically, a case study entails the details related to a specific shipment of arms. A case study illustrates and explains as far as reasonably possible all reliable and credible information (including any documents, computer files, photographs, eyewitness details, etc.,) related to the shipment, as well as the chain of events and people associated with the shipment.

Case study No. 1

Lower Shabeellaha, Somalia

Violations: A prominent Somali businessman-warlord-Governor, Sheikh Yusuf Mohamed Said Indohaade, purchased and received a variety of arms, as detailed below.

Dates: 30 September 2004, on or about 7 or 9 October 2004, 17 November 2004, 23 November 2004, 2 December 2004 and 2 January 2005.

Summary: This individual obtained arms from the Bakaaraha arms market at Irtogte, Mogadishu, as well as from other sources. To date, the Monitoring Group is aware of five arms purchases from Irtogte, and an additional purchase made directly from a neighbouring Gulf State.

Irtogte Purchases

30 September 2004: small arms, mainly ammunition, from the Bakaaraha arms market; ammunition primarily for the Zu-23 anti-aircraft gun, the tarantesete anti-tank, single shot, tubed weapon mounted on a vehicle, the waaqle anti-tank weapon, but smaller than the foregoing, the B-10 and the RPG-7 rocket launcher;

On or about 7 or 9 October 2004: a variety of ammunition;

2 December 2004: 40 AK 47 assault rifles and a variety of ammunition;

2 January 2005: 1 Zu-23 gun and 30 AK-47 assault rifles and a variety of ammunition.

Purchases from Irtogte are arranged for and on behalf of the above-mentioned individual by his two personal representatives who operate primarily from the arms market. It is their job to know what arms are available in terms of type, quantity and prices. They are also in continuous contact with the individual, who instructs them on the details of his arms needs.

Direct Purchase from the arms market of a Neighbouring Gulf State

On 17 November 2004, a single ship with a foreign registration arrived from a neighbouring Gulf State at the port of Marka in southern Mogadishu carrying a shipment of arms. The arms consisted of PKM machine guns, RPG-7 rocket launchers, hand grenades, anti-tank mines, different types of ammunition and TNT (explosives). The shipment of arms was shared between the above-named individual and two other men, Sheikh Hassan Dahir Aweys and General Mohamed Nur Galal. All three are associated with al Ittihad. The shipment was organized by a commercial front company.

When the ship arrived at the port of Marka, it was flying a Somali flag. When it returned to the waters of the same neighbouring Gulf State, it changed its flag to avoid possible problems with customs and police authorities of that State.

Source of funds for the arms purchases

Arms purchases are financed through funds that the above-mentioned individual collects from a variety of sources in the area under his control/administration, including "taxes" and revenues from traders, businessmen, the Marka and Baraawe seaports, airports, road checkpoints, farms (agricultural products), ocean fishery, drug farm operations and non-governmental organizations. From these revenues, he makes monthly payments to the militia, his inner circle (close advisers and associates), and the elders of the clan and makes arms purchases. After making the foregoing payments, the remainder, which is equivalent to approximately $50,000, reverts to his personal use.

Case study No. 2

Mogadishu

Violation: A prominent businessman, Bashir Rage, based in Mogadishu, purchased and received three ocean freight containers containing explosives.

Date: On or about 27 September 2004.

Summary: The Monitoring Group has documents that indicate that the shipper of this arms shipment is located in the United Kingdom of Great Britain and Northern Ireland. The same documents also indicate that the shipment was loaded onto a container ship at Antwerp, Belgium, on 29 July 2004. The bill of lading indicated the contents to be "agricultural chemicals", which were in transit to Bukavu, South Kivu, Democratic Republic of the Congo.

On or about 17 September 2004, the container ship arrived at Mombasa, Kenya. The clandestine arms shipment was offloaded at Mombasa. On 24 September 2004, a freight forwarding and clearing business, which also acts as a front for the transnational criminal organization involved in this shipment, acted as the agent for the shipper of the containers by handling all the necessary formalities required by the customs authorities at Mombasa. Among other activities, they presented documents that accompanied the containers to the customs authorities. The customs authorities then reviewed the documents for compliance with their respective regulations and, without inspecting the contents of the containers, approved their release from the port for onward shipment to the destination indicated in the documents. However, the accompanying documents had been falsified by the shipper, another member of the transnational criminal organization, for the purpose of misleading the authorities as to the real contents of the containers.

On 27 September 2004, the arms shipment, still in the same three containers, was loaded onto three lorries in Mombasa. Arrangements for the lorries were made by members of the transnational criminal organization who were acting to facilitate the clandestine movement of

the explosives. Instead of transporting the containers to the destination indicated on the documents accompanying the shipment, they transported the containers to the north of Mombasa.

They travelled for about 45 minutes and arrived at a small coastal town where a portion of the explosives were taken from the containers and loaded into two trucks. The trucks then travelled north along the coast to Watamu, Kenya, where they arrived at a boat loading point. The explosives were loaded onto a boat. The trucks made a total of three trips between the two coastal towns until all explosives were transported from the containers.

The boat carrying the explosives transported them to Kismaayo, Somalia. From Kismaayo, the explosives were further distributed to other locations including north to Marka and south to Raschiamboni in Somalia.

Source of funds for the arms purchase

The specific source of funds for the purchase of the arms is not known to the Monitoring Group. However, according to the information obtained by the Monitoring Group, the purchaser of the arms is an important businessman in north Mogadishu, Bashir Rage. He has significant control over commercial activities involving the seaport of El Ma'an, located along the coast north of Mogadishu.

V. Coordination with neighbouring States and regional and other organizations

A. Neighbouring States

83. During the mandate period visits of the Monitoring Group to neighbouring States were primarily dictated by the nature of the investigations. It is important to note that contacts were maintained with some of the official intergovernment focal points when it was necessary. In addition, the Monitoring Group also met officials of the central bank in the United Arab Emirates during one of the Group's visits to that country.

84. **Kenya**. The Monitoring Group met on several occasions with officials of the Government of Kenya during the mandate period, specifically, officials from the Ministry of Foreign Affairs and the National Security Office of the President. The Monitoring Group was informed that its report (S/2004/604) had been tabled for discussion during one of the meetings of the National Security Advisory Committee in November 2004. The Monitoring Group was also informed that a task force had been created specifically to address some of the findings and the issues raised in the report regarding Kenya.

85. **Yemen**. As reported in paragraph 170 of its previous report (S/2004/604), the Monitoring Group is still awaiting the responses to its list of questions submitted to the Government of Yemen during the visit of the Monitoring Group to Yemen in April 2004. On 13 December 2004, during a briefing by a representative of the Permanent Mission of Yemen to the United Nations to the members of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia, at which the members of the Monitoring Group were also present, it was reported that Yemeni officials had intercepted two ships with weapons destined for Somalia in 2002 and 2004 respectively.

86. It is important to note that during the same presentation, the Yemeni representative informed the Committee that the responses requested by the Monitoring Group had been submitted to the office of the United Nations Development Programme in Yemen. However, the Monitoring Group has never received those responses. The Monitoring Group therefore wrote to the Government of Yemen on 13 January 2005 seeking further information regarding the above-reported interceptions. It also reminded the Government of the fact that the Monitoring Group was still awaiting a response to its questions, which the authorities had promised to submit to the Monitoring Group in May 2004. The list of questions submitted is set out in annex III to the present report.

B. Regional and other organizations

African Union

87. The African Union (AU) is committed to the implementation and enforcement of the arms embargo on Somalia, and the Monitoring Group continues to work directly with AU in this regard. Two members of the Monitoring Group and the arms consultant attended the AU planning seminar on stabilization in Somalia during the transition, held at Addis Ababa on 4 and 5 November 2004. The seminar drew participants from the Commission of AU, the Intergovernmental Authority on Development (IGAD), the League of Arab States, the Transitional Federal Government, the European Union and the United Nations.

88. At the seminar, the Monitoring Group played an active role in the discussions and was a member of one of the panels of discussions. The Monitoring Group drew the participants' attention to the existence of the arms embargo on Somalia, and the need for the Transitional Federal Government or any organization (including AU) or State who would like to assist the Transitional Federal Government with military or military-related items, to approach the Security Council to request temporary exemptions or dispensation from the Somalia arms embargo as per paragraph 3 of resolution 1356 (2001).

89. The Monitoring Group participated in the drafting of paragraph 4 (ix) of the official statement of the planning seminar, which was distributed at the conclusion of the seminar. In addition, during the seminar, the Monitoring Group held meetings with representatives of the AU Peace and Security Council. Among the items discussed were the coordination of future reconnaissance missions to Somalia, the future role of the Monitoring Group in the light of the new political developments in Somalia, and the sharing of information.

Intergovernmental Authority on Development

90. Throughout the duration of the Somali National Reconciliation Conference in July 2004, under the auspices of IGAD, the Monitoring Group maintained direct contact with the Chairman of the Somali Peace Process. These contacts provided valuable information to the Monitoring Group regarding the Somali political dynamics at the peace process, and the events leading to the successful completion of the process. Relevant information on the mechanisms of the Somalia Transitional Federal Parliament, as well as the members of Parliament, assisted the Monitoring Group in its investigations. The contacts with the Chairman of the Somali Peace Process also helped to reinforce the threats and possible consequences faced by potential arms embargo violators for those attending the Conference, thus acting as a potential deterrent to the overall arms embargo violations to some of the new members of Parliament.

International Maritime Organization

91. The Monitoring Group has been in direct contact with officials of IMO during the mandate period. In mid-October 2004, the Monitoring Group held meetings with International Maritime Organization officials at the International Maritime Organization headquarters in London. Specifically, the Monitoring Group made a presentation elaborating on and addressing the major issues regarding some of the recommendations made in its previous report (S/2004/604) regarding IMO. Emphasis was placed on paragraphs 109 and 195 of the report calling for the urgent need to ensure safety and security along the Somali coastline and to prevent or minimize its use as a route for arms trafficking.

92. It is reassuring to note that in October 2004 the Secretary-General of IMO brought to the attention of the IMO Council at its ninety-third session, under agenda item 17 (a), paragraphs 5 and 6, the recommendations contained in the report of the Monitoring Group (S/2004/604). Members of the Council were invited to take note of the information, as appropriate. Consequently, during the seventy-ninth session of the IMO Maritime Safety Committee it was indicated in paragraph 18 of document MSC 79/2/1/Add.1 that the Council had noted paragraph 109 of the Monitoring Group report, and supported the Group's recommendation in paragraph 195 of its report (S/2004/604).

93. In addition, the Council also endorsed the initiative of the Secretary-General of IMO to bring the Monitoring Group's recommendation in paragraph 195 to the attention of the various IMO committees for consideration and action, as appropriate. They are currently reviewing this recommendation with a view to the development of potential projects for Somalia. Given the current political situation, the timing may be right for such projects. The Monitoring Group will continue to work with IMO to bring some of these projects to fruition, with a view to ensuring safety for the Somali coastline and to improving in particular the enforcement of the arms embargo violations along the coastline.

94. The Monitoring Group has been invited to give a presentation at a forthcoming IMO subregional seminar on piracy and armed robbery against ships and maritime security. This seminar is to be held at Sana'a from 9 to 13 April 2005. Unfortunately, the period of the current mandate of the Monitoring Group will have expired by then. However, it is important that at least one member of the Security Council Committee attend this seminar, because it would provide a valuable

opportunity for the Committee to underscore and to make the case to the regional and neighbouring States for the need for the effective enforcement of the arms embargo on Somalia.

World Customs Oganization

95. In continuation of previous efforts, the customs expert of the Monitoring Group paid a two-day visit to WCO in Brussels on 2 and 3 December 2004.

96. **Customs seizures of firearms**. Based on the statistics and analysis made by WCO compliance officials, 863 seizures of firearms have been officially reported in the WCO Customs Enforcement Network system. However, only one seizure was reported for the East and Southern African region. The regional customs authorities are aware of this situation and have pointed out that the seizures of arms were reported and compiled by other law enforcement bodies if a joint effort between customs and other law enforcement bodies resulted in that arms seizure. WCO has called upon its member administrations, especially those in East and Southern Africa, to actively report seized firearms.

97. **Special operation**. The customs expert of the Monitoring Group met with the head of the WCO Regional Intelligence Liaison Office in Nairobi, who said that a special customs operation could be conducted in the regional customs territory with the aim of further enhancing the United Nations arms embargo on Somalia. In letters addressed to the directors general of the regional customs administrations, the WCO enforcement directorate drew attention to the illicit firearms trade in the region and called upon member administrations to cooperate with the Monitoring Group on Somalia.

98. **Memorandum of understanding**. With the aim of further enhancing cooperation between the United Nations and WCO, the signing of a memorandum of understanding was suggested in the previous report of the Monitoring Group. However, given the time involved in developing a memorandum of understanding, and the fact that the arms embargo continues to be violated, it is necessary to find alternative options in the meantime. WCO has suggested a more flexible and practical approach to cooperation as a better alternative. It considers approaches to the regional customs intelligence network as an effective way to improve the customs enforcement on the cross-border illicit arms trade in the region.

99. **Capacity-building**. WCO suggested that capacity-building was very important in order to enhance the arms embargo, as customs officers had limited knowledge in identifying cross-border firearms. WCO expressed its readiness to upgrade its global e-learning system to include firearms courses in the system to train customs officers and incorporate the firearms contents into the regional train the trainer programme. Moreover, the mechanism of the seaports project in East and Southern Africa sponsored by the United Nations Office on Drugs and Crime has been evaluated as a successful model for the improvement of customs control over illicit arms cross-border movements.

VI. Conclusions and recommendations

A. Conclusions

100. The conclusions presented here are based on the areas of expertise within the Monitoring Group and the investigations conducted.

101. Owing to the continued heavy flow of arms into Somalia, much of which has been directed to those elements opposed to the Transitional Federal Government, particularly al-Ittihad and its allies, and the military training being conducted by the same elements, there is a seriously elevated level of threat of violence against the peaceful establishment in Somalia of the Transitional Federal Government. These opposition elements have a considerably enhanced military capability, are well organized and funded and have publicly expressed their intent violently to oppose the Transitional Federal Government and its supporters, e.g., foreign troops, if they enter Somalia.

102. The information contained in the previous report of the Monitoring Group (S/2004/604) concerning the Bakaarah arms market, and based on the continuing work of the Monitoring Group in connection with the same arms market, it is very clear that arms shipments moving into and through the market are a fundamental source of arms that helps perpetuate and provide fuel for violent clashes and instability in Somalia. Additionally, the Monitoring Group is convinced that another arms market, located in Yemen, operates in conjunction with the Bakaarah arms market by functioning as a continuing source for the arms routinely received by the Bakaarah arms market. The impact of the existence of these two arms markets on the instability of Somalia, in particular, and the many arms-related problems to the front-line States, in general, should not be underestimated.

103. Given the reduced role of aviation in the shipment of arms to Somalia and the emergence of the sea and road as the preferred modes of transport, the Somali coastline and its borders with its neighbours have become linchpins of the entire arms embargo violations. However, this is not to say that the role of air transport should be ignored. To enforce the arms embargo effectively, it is critical that both the border crossings and the Somali coastline be monitored effectively. In this regard, it is necessary fully to engage the neighbouring and regional States, as well as the Transitional Federal Government and IMO. The need for any future monitoring group to work closely and effectively with these States and the Transitional Federal Government cannot be overemphasized.

104. Although the customs border enforcement in the region has improved since the beginning of the Monitoring Group's mandate, it is advisable that all customs authorities in the region adopt the technique of customs risk assessment in dealing with the illicit arms trafficking. The customs authorities may also consider establishing a mechanism to share information and best practices in the implementation of the United Nations arms embargo.

105. An increasing demand for funds has been noticed during the mandate period, although financial sources required by warlords to fund their operations remain basically the same. However, methods of moving funds are dynamic and on some occasions these illegal funds are being operated under the umbrella of legal businesses or financial networks.

B. Recommendations

Continued monitoring

106. Based on the above, continued monitoring of the arms embargo is necessary to ensure its effectiveness, for the following reasons: (a) analysis of trends and patterns provides the Security Council with a perspective and a meaningful understanding of ongoing arms embargo violations and accompanying activities; and (b) continued investigations of specific arms embargo violations and those parties involved expose individual violators to possible sanctions. Both of the foregoing provide the best possible information to the Security Council to assist it in its decision-making regarding this very important issue.

107. The Monitoring Group should continue to develop the draft list of violators, including the compilation of dossiers of relevant and evidentiary materials, for eventual submission to the Security Council Committee for future punitive actions. It may also be necessary or appropriate to submit the draft list to the neighbouring and regional States for actions against the violators.

108. The Monitoring Group should establish a more formal and structured relationship with AU, IGAD and possibly the front-line and neighbouring States, to facilitate cooperation and exchange of information as appropriate.

Arms

109. The negative impact of the arms markets in Somalia and the front-line States should be neutralized or significantly diminished by:

(a) Recalling the arms recommendation of the Monitoring Group in its previous report (S/2004/604) and elevating awareness at the international, regional and State levels of the dangerous contributions made by the Bakaara h arms market, including the arms market of the neighbouring Gulf State, to the continued destabilization of Somalia and the borders and arms-related internal problems in front-line States;

(b) Encouraging the Transitional Federal Government to take decisive and rapid steps to regulate strictly or stop the sale of arms via the Bakaarah arms market, and by providing international and regional support to the Transitional Federal Government to carry out the above activities;

(c) Encouraging regional and other States to exercise diplomatic pressure on the neighbouring Gulf State to take strong restrictive measures to control the sale and clandestine movement of arms out of that country to Somalia and other States;

(d) Promoting increased arms enforcement and interdiction activities by the customs, police and security organs of regional and front-line States.

Transport

110. In paragraph 198 of its previous report (S/2004/604), the Monitoring Group recommended that the transitional Government that would emerge from the peace process should consider delegating its aeronautical responsibilities. However, it is now recommended that the Transitional Federal Government should work closely with the International Civil Aviation Organization, through the Civil Aviation Caretaker Authority for Somalia, to enable the Transitional Federal Government to

undertake its aeronautical responsibilities. Similarly, in this regard, the safety oversight responsibility for the Somali airspace should rest with the Civil Aviation Caretaker Authority for Somalia, until the political issues surrounding the entire Somali airspace are resolved.

111. The Security Council Committee, through the Monitoring Group, should work closely with IMO and neighbouring States to develop, on the basis of paragraph 195 of the previous report of the Monitoring Group (S/2004/604), potential projects for Somalia that could ensure safety and proper regulation along the Somali coastline, thus ensuring that maritime activities along the coastline are controlled effectively.

112. Regional and front-line States should continue to monitor aggressively the movements of aircraft to and from Somalia and closely coordinate with the Civil Aviation Caretaker Authority for Somalia regarding the nature and type of operations involved. In addition, neighbouring States should continue to monitor closely their common borders and to regulate the flow of vehicular traffic with a view to enforcing effectively the arms embargo.

Customs

113. The Somali Transitional Federal Government should be encouraged to establish its own customs border enforcement as soon as it moves back to Somalia. Countries neighbouring Somalia have expressed their willingness to assist and provide the necessary training programme.

114. The Monitoring Group should continue to consult with WCO in order to establish a cooperation mechanism to guarantee the effectiveness of United Nations sanctions, in addition to sharing and exchanging information and intelligence on the arms embargo and providing the necessary support for special programmes aimed at enhancing the arms embargo.

115. The efforts of conducting special operation on illicit arms cross-border movement made by the regional customs authorities should be encouraged. In this connection, continuity of cooperation with regional customs organizations is necessary.

Finance

116. The Transitional Federal Government or the relevant authority should regulate the production of charcoal and provide guarantees for sustainable reforestation programmes, adequate and legal financial channels for the reimbursement of the exportation of charcoal. Until that is in place, businesses importing charcoal from Somalia should refrain from or reduce their engagement in this activity. Unless the relevant authority regulates the production of charcoal guaranteeing sustainable wood reforestation programmes and adequate and legal financial channels for reimbursement of exports, among other major economic reforms, businesses importing charcoal from Somalia should refrain from or reduce their engagement in this commercial activity. Otherwise large sums of money proceeding from this illegal trade will continue to be used indiscriminately by the warlords in strengthening their position in the conflict.

117. Financial and other law enforcement authorities in the countries where the Somali Shilling is being printed illegally should share information, undertaking joint

operations effectively to address this practice, especially at the borders where the currency is being smuggled.

118. Organizations giving donations to Somali charities or non-governmental organizations should reinforce their post-donation auditing measures in order to avoid diversion of funds to warlords or extremist groups engaged in confrontations.

119. It is advisable for international and regional financial organizations to enhance their support for financial local authorities of the front-line States and States neighbouring Somalia, in terms of promoting cooperation, training, workshops, information-sharing and financial networking. Efforts should be made in focusing on topics related to criminalizing financial illegal activities, money-laundering and freezing and confiscating assets, and to the regulation and control of alternative remittance systems (hawalas).

Annex I

Evidentiary standards and verification process

1. In paragraph 36 of its previous report (S/2004/604), the Monitoring Group stated:

> "Against the backdrop of the challenges and difficulties in obtaining information in the field, the Monitoring Group adapted its standards of evidence to suit the Somali context. The Monitoring Group presented its standards to the Security Council Committee on 19 May 2004 during the mid-term briefing:
>
> "(a) Collection of information on events and topics from multiple sources where possible;
>
> "(b) Collection of information from sources with first-hand or quasi-first-hand knowledge of events;
>
> "(c) Looking for the consistency of the patterns of information and comparing them with new information;
>
> "(d) Looking at the totality of the information obtained on issues, topics and events and developing a mosaic of the information. Determining how the new information compares with the substance, tone and feel of the information already collected;
>
> "(e) Continuously factoring in the expertise and judgement of the relevant expert of the Group and the collective assessment of the Group;
>
> "(f) Continuously seeking out documentary support of the information collected."

2. In proceeding with developing information for its case studies, the Monitoring Group was ever mindful of the quality and accuracy of the information gathered and, as such, relied on the standards of verification (standards of evidence) above and the concept of source circles and the case study model.

3. The result was a constant and practical interaction between and among the three elements and resulted in the most accurate information possible in the light of the Somalia operating context:

(a) **Source circles**. Deliberate and systematic effort to gain access to those involved in arms embargo violations by way of individuals who have direct knowledge or know people who have direct knowledge of details of violations;

(b) **Case study model**. The case study model is specific arms shipment/transaction based. It is a tool that helped the Monitoring Group to systemize and standardize its investigative work and includes optimum questions that attempt to answer essential elements of information for all shipments investigated by the Monitoring Group.

Annex II

Arms purchases and sales at the Irtogte arms market during the mandate period

Individuals conducting transactions at the Irtogte market	*Type and quantity of arms and date of transaction*	*Role (supplier/purchaser/seller)*
Businessman and minister in the Transitional Federal Government	300 AK-47 assault rifles November 2004 (bought)	Purchased and sold arms
	A variety of ammunition such as mortar shells 25 November 2004 (bought)	
	100 rounds of ammunition for B-10 anti-tank weapons (bought)	
	1 DShK anti-aircraft machine gun 1 or 2 January 2005 (sold)	
	1 Zu-23 anti-aircraft weapon 4 January 2005 (sold)	
Warlord and minister in the Transitional Federal Government	AK-47 assault rifles, PKM machine guns, RPG-7 rocket launchers and ammunition November 2004	Purchased arms
	RPG-7 rocket launchers anti-tank ammunition, 100 rounds 120 mm mortar shells 25 November 2004	
	1 Zu-23-4 anti-aircraft weapons and a variety of ammunition, including mortar shells 12 January 2005	
Principal arms trader at the Irtogte market and vice-minister in the Transitional Federal Government	AK-47 assault rifles, PKM machine guns, RPG-7 rocket launchers and ammunition 1-3 November 2004	Purchased arms from a neighboring Gulf State and supplied to the Irtogte for the purpose of selling (profit)
Minister in the Transitional Federal Government	2 Zu-23-4 and 1 Zu-23-2 anti-aircraft weapons and ammunition 9 January 2005	Purchased arms
Principal al-Ittihad leader in overall charge of training camps	AK-47 assault rifles, PKM machine guns, RPG-7 rocket launchers, F1 hand grenades, rifle-fired grenades, 60 mm-82 mm mortar shells 7-21 November 2004	Purchased arms
	2 PKM machine guns, 10 SG-43 medium machine guns, 120 TT-33 Tokarev pistols, 60 magazines for AK-47 assault rifles 27 November 2004	

Individuals conducting transactions at the Irtogte market	*Type and quantity of arms and date of transaction*	*Role (supplier/purchaser/seller)*
	16 PKM machine guns, ammunition (more then 100 rounds) for RPG-7 rocket launchers 15 January 2005	
Businessman	1 Zu-23 anti-aircraft weapon On or about 18 November 2004	Purchased arms
Warlord/businessman and governor in southern Somalia and associated with al-Ittihad	1 Zu-23 anti-aircraft weapon, 4 PKM machine guns, 40 AK-47 assault rifles 23 November 2004	Purchased arms
	40 AK-47 assault rifles and a variety of ammunition 2 December 2004	
	1 Zu-23 anti-aircraft weapon, 30 AK-47 assault rifles and a variety of ammunition 2 January 2005	
Businesswoman/warlord	40 AK-47 assault rifles, 14 PKM machine guns, 6 RPG-7 rocket launchers, 2 DShK anti-aircraft machine guns and a variety of ammunition 29 November 2004	Purchased arms
	2 B-10 anti-tank weapons, 2 DShK anti-aircraft machine guns, 1 Zu-23 anti-aircraft weapon and 16 pieces of night vision equipment 30 November and 1 December 2004	
Businessman	4 Zu-23 anti-aircraft weapon, 10 DShK anti-aircraft machine guns and a variety of ammunition 19 January 2005	Seller of arms
Sharia courts, Mogadishu	10 PKM machine guns, a variety of ammunition and anti-tank mines 3 January 2005	Purchased arms

Annex III

Questions submitted to the Government of Yemen

As a follow-up to the meeting on 4 April 2004 between officials of the United Nations, the Monitoring Group, the Ministry of Defence and Ministry of the Interior and for the purpose of gaining a better understanding of arms control and arms market operating in Yemen, the Monitoring Group asks the following questions:

Arms market

1. What are the roles and responsibilities (formal and informal) of the Ministries of Defence and the Interior in connection with the arms market in Yemen?

Depending on the answer given to the foregoing, please refer to the following relevant questions:

2. Under what authority does the arms market operate? What is its proper name? What are the official requirements for operations?

3. Describe the arms market in detail (for example: What is it? How does it operate? How is it organized? Where is it located?).

4. Identify the key individuals and/or business entities associated with the commercial activities of the arms market. Does the Government of Yemen buy arms from or sell arms to the arms market?

5. Describe the types of weapons and ammunition available through the arms market and the cost of each.

6. Describe the availability and quantity of weapons and ammunition referred to in question 5. (The weapons/ammunition stockpiled and available immediately or available through order).

7. Identify in detail the primary sources (inside and outside Yemen) of the types of weapons and ammunition identified in question 5. How is the arms market re-supplied?

8. Identify in detail the arms brokers who transact business with and/or on behalf of the arms market.

9. Identify in detail the principal buyers of weapons and ammunition from the arms market. Specify their purchases and provide invoices and other documentation if available.

10. Provide details of any information in your ministry's possession related to the movements of weapons and ammunition to Somalia (confirmed or suspected, direct or indirect) since 2002. Provide any information concerning the provision of military training or other military equipment to Somalia since 2002.

11. Provide details of any weapons shipments interdicted, seized and/or investigated since the year 2002.

12. Provide any information concerning attempts by Somali factions to purchase weapons from the arms market, either directly or via a broker or third party, since 2002.

13. Describe the type of transaction records that are typically created for importation, exportation, purchase or sale of armaments associated with the arms markets.

14. What are the forms of payment for transactions involving purchases and sales associated with the arms market?

Arms control

15. What measures or programmes are in place to prevent the diversion of armaments for illegal purposes, including smuggling?

16. Does Yemen have an arms licensing programme? How is it enforced?

17. What is the armaments procurement process for the Government and private brokers?

18. List the names and contact details for licensed private arms brokers in Yemen.

19. Explain the legal process for the importation and exportation of armaments.

United Nations S/2005/154

Security Council

Distr.: General
9 March 2005

Original: English

Draft resolution

The Security Council,

Recalling its resolutions 1547 (2004) of 11 June 2004, 1556 (2004) of 30 July 2004 and 1574 (2004) of 19 November 2004,

Reaffirming its readiness to support the peace process,

Decides to extend the mandate of the United Nations Advance Mission in Sudan (UNAMIS), established by its resolution 1547 (2004), until 17 March 2005;

Decides to remain actively seized of the matter.

05-26632 (E) 100305

United Nations A/59/733–S/2005/155

General Assembly
Security Council

Distr.: General
10 March 2005

Original: English

General Assembly
Fifty-ninth session
Agenda items 55, 65, 65 (bb), 66 (e) and 71

Follow-up to the outcome of the Millennium Summit

General and complete disarmament

General and complete disarmament: establishment of a nuclear-weapon-free zone in Central Asia

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly: United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific

Comprehensive Nuclear-Test-Ban Treaty

Security Council
Sixtieth year

Letter dated 7 March 2005 from the Permanent Representatives of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan to the United Nations addressed to the Secretary-General

We have the honour to transmit herewith the text of the Tashkent statement of representatives of Central Asian States on the establishment of a nuclear-weapon-free zone in Central Asia, adopted at the United Nations-sponsored meeting on the Central Asian nuclear-weapon-free zone, held on 8 February 2005 in Tashkent (see annex).

We would be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 55, 65, 65 (bb), 66 (e), 71, and of the Security Council.

(*Signed*) Yerzhan **Kazykhanov**
Permanent Representative of the Republic of Kazakhstan
to the United Nations

(*Signed*) Nurbek **Jeenbaev**
Permanent Representative of the Kyrgyz Republic
to the United Nations

05-26597 (E) 140305

(*Signed*) Rashid **Alimov**
Permanent Representative of the Republic of Tajikistan
to the United Nations

(*Signed*) Aksoltan **Ataeva**
Permanent Representative of Turkmenistan
to the United Nations

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan
to the United Nations

Annex to the letter dated 7 March 2005 from the Permanent Representatives of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan to the United Nations addressed to the Secretary-General

[Original: English and Russian]

Tashkent statement of representatives of Central Asian States on the establishment of a nuclear-weapon-free zone in Central Asia

(7-9 February 2005)

The five Central Asian States, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan, Turkmenistan and the Republic of Uzbekistan:

Recalling the Almaty Declaration of the Heads of State of the Central Asian States, adopted on 28 February 1997; the statement adopted at Tashkent on 15 September 1997 by the Ministers for Foreign Affairs of the five States of the region; the United Nations General Assembly resolutions 52/38 S, of 9 December 1997, 53/77 A, of 4 December 1998, 55/33 W, of 20 November 2000 and 57/69, of 22 November 2002, and its decisions 58/518, of 8 December 2003 and 59/513, of 3 December 2004, entitled "Establishment of a nuclear-weapon-free zone in Central Asia"; and the Communiqué of the Consultative Meeting of the Experts of the Central Asian Countries, the Nuclear-Weapon States and the United Nations, adopted at Bishkek on 9 July 1998,

Noting that in the final Document of the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF.2000/28 (Parts I and II)), the Parties expressed support for the intention and commitment of the five Central Asian States to establish a nuclear-weapon-free zone in their region, welcomed the practical steps taken towards implementation of their initiative and also noted with satisfaction the substantial progress made by the Central Asian States in drawing up and agreeing on a draft treaty on the establishment of a nuclear-weapon-free zone in Central Asia,

Considering that the establishment of nuclear-weapon-free zones contributes significantly to the maintenance and consolidation of peace and security at the global and regional levels,

Commending substantive progress having been made by their efforts with the support of the United Nations, in particular the Secretary-General, the Department for Disarmament Affairs, the Regional Centre for Peace and Disarmament in Asia and the Pacific, the Office of Legal Affairs and the International Atomic Energy Agency in the process of drawing up and agreeing on a draft treaty on the establishment of a nuclear-weapon-free zone in Central Asia,

Reaffirming the importance of an agreement reached in Samarkand in September 2002 on a treaty and a protocol on a nuclear-weapon-free zone in Central Asia,

1. *Welcome* the outcome of the Tashkent meeting held from 7 to 9 February 2005 that finalized the draft treaty with the recommendations from the International

Atomic Energy Agency and the United Nations Office for Legal Affairs and comments from the five nuclear-weapon States;

2. *Note with appreciation* the support of all States, including the five nuclear-weapon States, for the initiative of the five Central Asian States establishing a nuclear-weapon-free zone in the region;

3. *Reaffirm* their strong commitments to establish a nuclear-weapon-free zone in Central Asia that will contribute to nuclear disarmament, peace and security in the region;

4. *Urge* all States, particularly the nuclear-weapon States, to fully cooperate with the five Central Asian States in implementing the Central Asian Nuclear-Weapon-Free Zone Treaty;

5. *Reiterate* their earnest desire to sign the Central Asian Nuclear-Weapon-Free Zone Treaty as soon as possible.

For the Republic of Kazakhstan

For the Kyrgyz Republic

For the Republic of Tajikistan

For Turkmenistan

For the Republic of Uzbekistan

United Nations S/2005/156

Security Council

Distr.: General
10 March 2005

Original: English

Letter dated 10 March 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 8 March 2005, from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina (see annex).

I should be grateful if the present letter could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

05-26160 (E) 140305

Annex

Letter dated 8 March 2005 from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the twenty-seventh report. I would ask you kindly to submit this report to the Security Council members for their consideration.

(*Signed*) Paddy **Ashdown**

Enclosure

Twenty-seventh report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General

1 July-31 December 2004

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative in accordance with annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present the twenty-seventh report.

Summary

1. In the tenth year of the implementation of the Dayton-Paris Peace Accords, Bosnia and Herzegovina is concentrating on meeting the requirements for membership of the NATO Partnership for Peace and satisfying the conditions required for the launch of negotiations with the European Union (EU) on a stabilization and association agreement. Almost three years after assuming my mandate as High Representative on 27 May 2002, the Office of the High Representative remains focused on ensuring that Bosnia and Herzegovina is a peaceful and viable State on course to Euro-Atlantic integration.

2. The European Commission Feasibility Study conditions for opening negotiations on a stabilization and association agreement and the requirements for entry to the NATO Partnership for Peace were the focus of political attention in the second half of 2004. The Bosnia and Herzegovina authorities made steady progress towards fulfilling the legislative requirements in the reporting period, while important structural changes in the fields of crime prevention, the judiciary, customs and taxation, the development of a single economic space and the energy market were initiated. But the main obstacle to Bosnia and Herzegovina's progress remained its failure to cooperate fully with the International Tribunal for the Former Yugoslavia.

3. Despite remarkable progress on the defence reform front (see below), placing the armed forces under State control, and fulfilling almost all the NATO reform benchmarks, in December 2004 NATO once again turned down Bosnia and Herzegovina's application to join the Partnership for Peace owing to its failure to cooperate fully with the Tribunal. The Tribunal Chief Prosecutor, Carla del Ponte, noted in her presentation to the Security Council in late 2004 that there were fundamental systemic weaknesses built into the law enforcement and security structures in Republika Srpska that hindered its cooperation with the Tribunal and needed to be addressed.

4. On 2 December 2004, NATO successfully terminated the mission of the Stabilization Force (SFOR) and the European Union launched the European Force (EUFOR) Operation Althea. This important development is covered in more detail in the main body of the report below.

5. The Office of the High Representative continued to work on building the capacities of the State Court during the second half of 2004. The Office's Rule of

Law Department supervised the recruitment of international judges and prosecutors for the special panel on organized and financial crimes within the State Court.

6. In the reporting period, the Office of the High Representative also led the way in establishing the necessary institutions for the domestic trial of war crimes in Bosnia and Herzegovina by establishing a special department for war crimes within the State Prosecutor's Office and a special chamber for war crimes within the State Court.

7. Since the adoption of the laws establishing the State Investigation and Protection Agency in July 2004, the Agency has moved steadily towards full operational capability. The special projects team of the Rule of Law Department continues to work closely with other international organizations, including the European Union Police Mission, the European Commission and the International Criminal Investigative Training Assistance Programme, on establishing the Agency as a full-fledged, State-level police agency with the resources and authority to combat organized and international crime, corruption and terrorism. In the second half of 2004, the Agency became the primary agency in Bosnia and Herzegovina responsible for compiling and analysing information from financial transactions in order to initiate appropriate criminal investigations.

8. The High Judicial and Prosecutorial Council came into being as a State-level institution on 1 May 2004. The mandate of the Independent Judicial Council was consequently terminated, but with many staff members of the Independent Judicial Council transferring to the High Judicial and Prosecutorial Council secretariat. Although the new Council has no formal relationship with the Office of the High Representative, it continued working closely with the Office's rule of law and legal departments on issues of common interest. In the reporting period, the High Judicial and Prosecutorial Council finalized the process of reappointing all judges and prosecutors at all levels in Bosnia and Herzegovina.

9. Noteworthy progress continues to be made on completing the items on the economic reform agenda presented to the Peace Implementation Council. The Bosnia and Herzegovina authorities have significantly advanced towards implementing a single set of tax rules, applicable throughout the country. The final quarter of 2004 saw remarkable success in rebalancing the budgets of the Government of Bosnia and Herzegovina. December 2004 also saw the adoption of entity budgets for 2005. Furthermore, Bosnia and Herzegovina moved closer to the establishment of a single economic space. The Office of the High Representative leadership of the Bulldozer Initiative ended at the close of 2004. Ownership of this process was transferred to the Employers' Association of Bosnia and Herzegovina (a non-governmental organization).

10. Progress in defence reform continued, with further implementation of the reforms agreed in 2003 and the fulfilment of all but 1 of the 13 technical benchmarks of NATO for entry into Partnership for Peace. The last remaining technical benchmark was the requirement for 65 per cent staffing of State defence institutions. Such staffing has proceeded slowly, but it is hoped that this benchmark will be met early in 2005. During the period under review, the downsizing of the entity armies was completed as planned. The active forces now stand at 12,000. With the end of the year, the successful role of the Organization for Security and Cooperation in Europe (OSCE) in defence reform ended, and NATO has taken over.

11. The establishment of the Intelligence and Security Agency has proceeded according to the transitional provisions set forth in the Intelligence and Security Agency Law. As a result of a review process for all employees, the staff of the Agency has been reduced, rulebooks have been drafted and approved by the Council of Ministers and the Agency has signed a comprehensive memorandum of understanding with its main law enforcement counterpart, the State Investigation and Protection Agency.

12. Responding to Prime Minister Adnan Terzić's initiative, a Police Restructuring Commission was established on 2 July 2004 with a mandate to propose "a single structure of policing for Bosnia and Herzegovina". The Commission delivered its report on 14 January 2005, recommending that policing in Bosnia and Herzegovina should be an exclusive competence of the State, including legislative and budgetary competence. Implementation of the recommendations made on the report will be a major priority for 2005. Significant progress in police restructuring is a condition for Bosnia and Herzegovina to move forward in the EU stabilization and association process.

13. During the reporting period, the Office of the High Representative, in close cooperation with the local authorities, stepped up its efforts to enhance the functioning of the Council of Ministers — which is another EU Feasibility Study requirement. On 24 September 2004, Prime Minister Terzić submitted a joint action plan for staffing and premises to the Peace Implementation Council and pledged his commitment to it.

14. Significant progress has been achieved in unifying the city of Mostar. The imposition of the outstanding elements of the Statute in January 2004 set in train a process that is putting an end to the parallel structures and segregation that has prevailed in that city since the war. The City Council elected in October chose a moderate Croat as the first mayor of a unified Mostar. Furthermore progress has been made in joining ethnically divided institutions, and a degree of cooperation between the moderate majorities of the main political parties has started to emerge. In the reporting period, the new mayor started appointing a multi-ethnic, unified city administration and there is clear majority support in the City Council and among the community as a whole to press on with the unification process.

15. In the reporting period, Bosnia and Herzegovina marked the return of the 1 millionth refugee. The Bosnia and Herzegovina authorities successfully assumed responsibility for the implementation of annex VII. The State Ministry has been successful in securing loans from financial institutions such as Council of Europe Development Bank and the Organization of the Petroleum Exporting Countries (OPEC), while the Bosnia and Herzegovina State Commission for Refugees and Displaced Persons continued to act as the main coordinating body between the State, the entities and Brcko District.

16. Significant progress in implementing the mission implementation plan and the core tasks of the Office of the High Representative has been achieved during the reporting period, while two critical mileposts — membership in the NATO Partnership for Peace and the launch of the stabilization and association agreement negotiations with EU — are within reach. Of 26 programmes, 4 have been completed. The updated mission implementation plan document can be found on the Office of the High Representative web site www.ohr.int.

I. Introduction

17. This is my fifth report to the Secretary-General since taking over as High Representative on 27 May 2002. The report assesses progress made towards attaining the goals outlined in previous reports, as well as reviewing developments during the reporting period.

II. Political update and core reforms

18. The reporting period saw the first municipal elections to be administered wholly by local institutions, in October 2004. In the Federation, nationalists and moderates held their positions, but all three parties whose support mainly comes from the Bosniak community lost votes owing to low turnout.

19. The electoral competition in Croat-majority areas seems to have changed little, with the notable exception of a local strong challenge to the dominant Croatian Democratic Union (HDZ), in western Herzegovina.

20. Despite the necessity of rerunning the elections in Zvornik municipality, the elections in the Republika Srpska passed off peaceably. These elections showed further gains for the Independent Social Democratic Party (SNSD) and a further erosion of Serbian Democratic Party (SDS) pre-eminence in Republika Srpska politics.

21. Across both entities, and irrespective of ethnicity, the direct election of mayors saw a higher vote for the individual candidate than for the party.

22. Over the latter few months of 2004, there were some signs that Republika Srpska leaders had finally grasped that cooperation with the International Tribunal for the Former Yugoslavia was not an obligation that could be avoided, and which would not diminish over time.

23. In late October the Republika Srpska government adopted the Srebrenica Commission's final report. It acknowledged the magnitude of the crimes committed and provided additional details regarding the war crimes committed in and around Srebrenica in July 1995. Republika Srpska President Cavic expressed the hope that the entity's ability to look hard at its own painful past would lead others to do so as well. The international community welcomed the step by the Republika Srpska authorities and endorsed both the report's and President Cavic's demand that those guilty of war crimes should be brought to justice.

24. In addition, Republika Srpska Special Police arrested eight Bosnian Serbs on suspicion of war crimes. The warrant was issued by the Sarajevo Cantonal Court (these were not International Tribunal for the Former Yugoslavia indictees). However, despite these welcome developments, by the beginning of December 2004, Bosnia and Herzegovina was still not cooperating fully with the Tribunal — in the eyes of either the Chief Prosecutor of the Tribunal herself or in those of NATO. Bosnia and Herzegovina therefore failed for a second time in a year to qualify for membership of the NATO Partnership for Peace.

25. As a result, on 16 December, the Office of the High Representative, together with EUFOR and the United States, announced a series of further sanctions designed to penalize the failure of the Republika Srpska in particular to meet its

International Tribunal for the Former Yugoslavia obligations and to address some of the systemic failures in its security and law enforcement structures that perpetuate this continuing failure to cooperate fully with the Tribunal. Among eight specific measures, the High Representative removed nine officials and blocked the bank accounts of others suspected of abetting Tribunal fugitives, ordered the Republika Srpska government to find out if people named in the Srebrenica report were still in government service, and asked that defence reform should be accelerated through the early closure of the entities' ministries of defence. He also required that police restructuring be implemented in line with the principles outlined in the Police Restructuring Commission report and endorsed by the European Commission.

26. In the wake of this package of measures — both the Office of the High Representative and bilateral — the Party of Democratic Progress (PDP) ministers at the Republika Srpska and State level chose to submit their resignations. But the business of government largely continued unaffected. Complex and sensitive laws on sales and excise taxes, for example, completed their passage through Parliament in the last week of December, unaffected by the political turbulence. In response to the resignations, Republika Srpska President Dragan Cavic convened talks with all Serb-dominated parties on the way forward, and in late December the heads of six Serb-based parties signed an agreement, that, inter alia, confirmed the Republika Srpska's commitment to tackling the Tribunal issue. At the end of the reporting period, the developments were still playing themselves out: but there was little indication that there would be a significant effect on the implementation of the reform agenda — either in the Republika Srpska or at the Bosnia and Herzegovina level.

27. In the autumn, Prime Minister Terzić had offered his resignation over the Bosnia and Herzegovina Parliament's failure to adopt a government proposal on the value added tax (VAT) rate. It was not accepted and, in early January, the Parliament passed laws that will enact a State-level, single-rate VAT system that will come into effect by January 2006 at the latest.

28. Four years ago, Wolfgang Petritsch imposed a decision integrating the municipalities of Zepce and Gornji Vakuf/Uskoplje. This put an end to years of lawlessness and illegal parallel structures, a legacy of the Bosniak-Croat war there. Considering the level of progress achieved in the process of integrating municipal services and community life in both municipalities, the High Representative amended the municipality's statutes. Both decisions brought the municipalities of Zepce and Gornji Vakuf/Uskoplje into the administrative mainstream of Bosnia and Herzegovina and effectively ended the supervisory engagement of the Office of the High Representative.

III. The European Community feasibility study requirements

29. The European Community feasibility study requirements became increasingly dominant in the Bosnia and Herzegovina political environment during the reporting period. Considerable progress in adopting legislation required by the study has been made. The Bosnia and Herzegovina Parliament fully enacted 20 laws, many of which introduced significant structural reforms, such as tightening fiscal policies and budget control, setting up a State-level Phytosanitary Administration,

strengthening market standards, introducing effective and transparent public procurement and reforms in the fields of the judiciary and police.

30. The Office of the High Representative, with the European Commission and the EU Customs and Fiscal Assistance Office, invested heavily in ongoing support for the Indirect Taxation Administration. The Authority moved to permanent premises; the 2004 budget disbursement was started through the Bosnia and Herzegovina Ministry of Treasury and Finance started; the head office and regional customs centres became operational; and VAT development teams were recruited directly into the Authority. For the first time since Dayton, new revenue distribution arrangements (customs revenues and most excise and sales tax revenues) have been launched. The State started to be funded by the entities directly from a single account, rather than through the monthly transfer arrangement. The past six months have seen considerable fiscal adjustments in Bosnia and Herzegovina, but further measures will be needed to eliminate the Government's dependence on external budgetary support.

31. The laying of the foundations for a VAT system in Bosnia and Herzegovina has been one of the most significant fiscal reforms in recent years, establishing a more effective taxation system and securing stable funding for a growing number of State institutions, in addition to helping create a single economic space across the country.

IV. Inculcating the rule of law

32. The Office of the High Representative continued to work on building the capacities of the State Court during the second half of 2004. The Office's Rule of Law Department supervised the recruitment of international judges and prosecutors for the special panel on organized and financial crimes within the State Court.

33. The Rule of Law Pillar was dissolved on 1 October 2004. It was replaced by a substantially reduced Rule of Law Department. At its peak, the rule of law pillar included over 200 personnel. The new department has approximately 70 staff.

34. Efforts to develop a sound anti-money-laundering programme have proceeded. After the adoption of the new Law on the Prevention of Money Laundering and the establishment of the State Investigation and Protection Agency's Financial Intelligence Department, the Agency became the primary body in Bosnia and Herzegovina responsible for compiling and analysing information from financial transactions in order to initiate appropriate criminal investigations.

35. The Anti-Crime and Corruption Unit of the Office of the High Representative has had to adapt to the development of the State Court and the State Prosecutor's Office. The arrival of international judges and prosecutors has meant that the prime responsibility for investigating, prosecuting and trying most major cases of organized crime and corruption has shifted to these new bodies. In addition, the adoption of new criminal procedure codes at the State and entity levels meant that prosecutors, rather than judges or police officers, were leading investigations.

36. The Anti-Crime and Corruption Unit also sought to facilitate the international agreements necessary to forge cooperation between and among the enforcement agencies, prosecutors and courts in Bosnia and Herzegovina, as well as their counterparts abroad.

37. The special projects team of the Rule of Law Department continues to work closely with other international organizations, including the European Union Police Mission, the European Commission and the International Criminal Investigative Training Assistance Programme, on establishing the State Investigation and Protection Agency as a full-fledged, State-level police agency with the resources and authority to combat organized and international crime, corruption and terrorism. Since the adoption of the laws establishing it in July 2004, the Agency has moved towards full operability.

38. The process of reappointing all judges and prosecutors at all levels in Bosnia and Herzegovina required a massive effort. Almost 1,000 vacancies were advertised. Over 1,700 applications were received and reviewed. Candidates were vetted in a procedure that included thorough background investigations. More than 900 candidates were interviewed. The result was the appointment (or reappointment) of 877 judges and prosecutors.

39. The Disciplinary Prosecutor received cases against over 150 judges and prosecutors. A number of disciplinary hearings were held, though some judges and prosecutors opted to resign before the cases against them could be heard. Sanctions were imposed in 14 cases of established judicial misconduct.

V. War crimes chamber

40. The establishment of the War Crimes Chamber within the Court of Bosnia and Herzegovina in 2004 ensured the effective and independent prosecution of individuals accused of war crimes and organized crimes through its own judicial system. It thus strengthened the capacity of Bosnia and Herzegovina to uphold the rule of law. The Registry Office in the special Chamber of the Court of Bosnia and Herzegovina and the Special Department in the Prosecutor Office of Bosnia and Herzegovina became operational in January 2005. The Registry Office is responsible for the management and administration of the war crimes project (including the administration of the Registry, the Special Chamber and the Special Department). It ensures that the court is not subject to undue influence or pressure. Maximum-security prison facilities for pre-trial and post-conviction detention have been established.

41. The first group of judges and prosecutors have been appointed by the High Representative upon the joint recommendation of the President of the High Judicial and Prosecutorial Council, the President of the Court of Bosnia and Herzegovina or the Chief Prosecutor, respectively, and the Registrar. The Registry is now an independent entity and, with these appointments, it is capable of fulfilling the mandate conferred upon it by the International Agreement on the Establishment of the Registry — as contemplated by the Peace Implementation Council and the participants at the Donors Conference in October 2003.

42. The Registry is currently providing support to the President of the Court of Bosnia and Herzegovina, the Chief Prosecutor and the Minister of Justice of Bosnia and Herzegovina in many core functions. The Registry was to officially begin court management services at the court facility on 31 January 2005 for both the organized crime and war crimes dockets. The high security detention unit available for both dockets has been completed and is being handed over to the Minister of Justice for operation under the guidance of international experts. The International Tribunal for

the Former Yugoslavia is expected soon to transfer the first war crimes case. Six major organized crime cases are currently pending in the Court, with many more in the investigative phase.

VI. Reforming the economy

43. Notable progress continues to be made in completing the items on the economic reform agenda presented to the Peace Implementation Council.

44. During the reporting period, the Bosnia and Herzegovina authorities made significant strides towards implementing a single set of tax rules, applicable throughout the country. In December, State-level laws on sales and excise taxation were passed. For the first time since the end of the war in 1995, the same indirect tax rates, rules, enforcement regulations and collection system will operate across the whole country. At the same time, the problem of double taxation within the territory of Bosnia and Herzegovina (a major disincentive to investment and job creation) was abolished. The passage of the Single Account Law has meant that all customs tariffs, excise and sales tax revenues have flowed into a single account since 1 January 2005. This not only paves the way for the smooth introduction of VAT in January 2006, but also provides for a more stable means of financing the State Government.

45. The final quarter of 2004 witnessed remarkable success in rebalancing the budgets of the Government of Bosnia and Herzegovina. December also saw the adoption of entity budgets for 2005. The new budgetary arrangements for 2005 will mean that the bulk of public revenues are collected into a single account before being apportioned in accordance with the State and entity finance ministers' agreement concluded in December with approval of the International Monetary Fund.

46. Furthermore, important steps have been taken to complete the establishment of a single economic space and create a level playing field for all businesses. The State-level Law on Public Procurement was enacted in late 2004, following the adoption of the Framework Law on Business Registration (which aims to introduce a faster, more transparent and more uniform, system for registering a business in the country). The new Bosnia and Herzegovina Law on Accounting and Auditing will, inter alia, put in place a uniform set of international accounting and auditing standards.

47. Advances in the longstanding efforts to reform and restructure the transport sector have had mixed success. Although civil aviation is witnessing remarkable progress, circumstances beyond the control of Bosnia and Herzegovina authorities and the Office of the High Representative limit room for possible improvement. Thus, the Bosnia and Herzegovina civil aviation sector annually loses millions of marka in overflight fees, owing to the continued closure of Kosovo air space, even though normalization of air traffic in the region would be easy to achieve. However, political deadlock over the final status of Kosovo and lack of political will among the various governing structures in the province have prevented this issue from being satisfactorily resolved for the benefit of the whole region.

48. Ever since the war-induced disruptions in Bosnia and Herzegovina, the European electricity sector was divided into two grids, with the border running

through Bosnia and Herzegovina. On 10 October, the two grids were finally reconnected. Physical reconstruction and institutional reform in Bosnia and Herzegovina meant that the largest synchronous electricity supply zone in the world has now been created as a result of those efforts.

49. The Office of the High Representative leadership of the Bulldozer Initiative ended at the close of 2004. Ownership of this process was transferred to the Employers' Association of Bosnia and Herzegovina.

50. The Office of the High Representative also assisted in the launch of the State Veterinary Border Inspection Service in November. This promises to improve opportunities for Bosnia and Herzegovina producers to export their agricultural products. Given that a significant proportion of Bosnia and Herzegovina citizens' livelihoods depends on farming and food processing, the most recent efforts illustrate useful progress in an area that has lacked political attention and focus. The economic implications of improvements in the area should not be underestimated, especially in view of aspirations of Bosnia and Herzegovina to EU membership.

51. Having noted alarming patterns of mismanagement, incompetence and political manipulation within the publicly owned companies in Republika Srpska, in December the Office of the High Representative amended the relevant legislation, thus requiring special audits of such companies to be conducted by the Republika Srpska Auditor General. In response, the entity governments committed themselves to implementing reforms aimed at improving management practices and eliminating endemic corruption in the public sector. The passage of the Bosnia and Herzegovina Law on Public Procurement in September will put in place uniform procurement regulations for all levels of government in Bosnia and Herzegovina. The law is in line with the EU *acquis communautaire* and establishes a mechanism that will allow for effective supervision of public procurement, greater accountability and better budgetary control.

VII. Strengthening the State Government

52. During the reporting period, the Office of the High Representative, in close cooperation with the local authorities, stepped up efforts to enhance the functioning of the Council of Ministers — which is a feasibility study requirement. On 24 September 2004, Prime Minister Terzić submitted a joint action plan for staffing and premises to the Peace Implementation Council and pledged his commitment to it. The aim of the plan is to increase the level of staffing and the space available for State ministries, so boosting institutional capacity. To that end, the plan stipulated the establishment of a commission for premises management, a commission for public assets and amendments to the State Civil Service Law, including a set of timelines for required actions. Until the end of the reporting period, however, progress was extremely slow.

VIII. Public administration and civil service reform

53. Public administration reform continued in the reporting period. The European Commission reviews of Bosnia and Herzegovina's public sector have not yet been completed. Once all review reports are in, a comprehensive strategy for improving Bosnia and Herzegovina's public administration will follow. In order to underline

the importance of this project, in October 2004 the office of the public administration reform coordinator was moved to the office of the Prime Minister, who is in charge of the overall reform process.

IX. Police reform

54. Responding to Prime Minister Terzić's initiative, a Police Restructuring Commission was established on 5 July 2004 with a mandate to propose a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers. Significant progress in police restructuring is an EU feasibility study condition. The Commission was guided by EU best practices. It focused primarily on establishing a single structure of policing with competency vested at the State level but operating in functional areas based on technical policing criteria. The Commission held numerous meetings at various locations from July to mid-December, and the final report was submitted by the Chair of the Commission, Wilfried Martens, to the High Representative and the Prime Minister early in 2005. The report recommends that policing should be an exclusive competence of the State in Bosnia and Herzegovina, including legislative and budgetary authority.

X. Defence reform

55. Progress in defence reform continued, with further implementation of the many reforms agreed in 2003 and the fulfilment of all but 1 of the 13 technical benchmarks of NATO for entry into the Partnership for Peace.

56. The remaining technical benchmarks for defence reform were met in the second half of 2004, except for the one requiring 65 per cent staffing of the State defence institutions. Staffing has proceeded slowly, but there is scope for this benchmark soon to be met.

57. During the review period, the downsizing of the entity armies was completed as provided for in the Bosnia and Herzegovina Presidency's decision of March 2004 on the size and structure of the armed forces of Bosnia and Herzegovina. The active forces now total 12,000. Agreement was reached on the locations of State defence institutions. Additionally, doctrine, policy and procedures were agreed for command and control. A newly established State Ceremonial Unit made its first public appearance at the SFOR-EUFOR transfer of authority on 2 December. Its members wore the same shoulder patches and carried the same rifles.

58. The Joint Personnel Commission completed its report. Concepts were agreed for a military intelligence branch within the armed forces of Bosnia and Herzegovina, as well as a State demining cell. A moratorium on the sale of surplus small arms and light weapons was set; a technical survey and a pilot programme for the destruction of surplus arms and ammunition were completed; and a plan to reduce substantially the number of ammunition storage sites was drafted. The first Bosnia and Herzegovina State-level Minister of Defence, Nikola Radovanovic, in office since April 2004, played an important and constructive role in driving the reform forward. The Parliamentary Assembly continued to take its oversight role seriously.

59. Nonetheless, the failure of Bosnia and Herzegovina to cooperate fully with the International Tribunal for the Former Yugoslavia prevented NATO from extending an invitation at its meeting in Brussels on 8 and 9 December. The Alliance reiterated its "no" from the June 2004 Istanbul summit, expressing deep concern at the most recent assessment offered to the Security Council by the Chief Prosecutor. NATO foreign ministers underlined once again that Bosnia and Herzegovina and its neighbours must cooperate fully with the Tribunal, including bringing to justice all those indicted by the Tribunal, but noted that Bosnia and Herzegovina would be welcome in Partnership for Peace once it had met the established conditions.

60. The measures announced on 16 December 2004, followed by the 31 December decision of the High Representative extending and adjusting the mandate of the Defence Reform Commission, set an ambitious defence reform agenda for 2005. The transfer of the remaining entity competencies in the defence field to the State level will be accelerated. The austere budgets for the Bosnia and Herzegovina defence establishment in 2005 will make these efforts additionally demanding but, at the same time, the diminishing resources available underline the need for bold decisions. The goal remains clear: to create a modern and affordable defence system that has the confidence of all citizens of Bosnia and Herzegovina, under full and unambiguous State-level command and control, and can achieve the goal of Partnership for Peace membership that Bosnia and Herzegovina has set for itself.

61. The turn of the year marked the successful end of the OSCE leading role in defence reform. In what is a natural and positive development, NATO has now taken over, although OSCE will continue to provide valuable support for some time to come.

XI. Intelligence reform

62. Since the formal establishment of the Intelligence and Security Agency on 1 June 2004, the physical and organizational unification of the two former entity intelligence services has proceeded according to the transitional provisions set out in the Law on the Intelligence and Security Agency. As a result of a review process of all employees, the staff of the Agency was cut by 307 persons by the start of 2005. Those who failed to meet the criteria for employment will receive severance packages. The review process was conducted in a procedurally sound manner. The leadership has since appointed a new middle management, with due sensitivity to ethnic balance.

63. Various rulebooks have been drafted by the Intelligence and Security Agency and approved by the Council of Ministers over the last six months. The Agency has signed a comprehensive memorandum of understanding with its main law enforcement counterpart, State Investigation and Protection Agency. A draft memorandum of understanding regulating the cooperation and coordination with the Military Intelligence Branch of the Armed Forces of Bosnia and Herzegovina is also under way. Additional steps to regulate and develop the role of the Intelligence and Security Agency in Bosnia and Herzegovina's "intelligence community" have been taken by the Director-General. This proactive role of the Agency is a welcome sign.

64. The leadership of the Intelligence and Security Agency has taken its responsibilities seriously. Cooperation between the Director-General, his Deputy

and the Inspector General has gradually improved, and their tasks and responsibilities are divided according to the provisions of the law.

65. It is also worth noting that the members of the Security and Intelligence Committee of the Bosnia and Herzegovina Parliamentary Assembly have increasingly fulfilled their important role of providing parliamentary oversight. Though gradually improving, the role of the executive could be more proactive. It is of vital importance that the Intelligence and Security Agency is supervised and given appropriate political guidance in its work.

66. In order to continue the progress, the mandate of Ambassador Kalman Kocsis as Supervisor has been extended for a period of six months, until the end of June 2005. Ambassador Kocsis will oversee the consolidation of the reform.

XII. SFOR handover to EUFOR

67. On 9 July 2004, the Security Council welcomed the EU intention to launch a military mission from December 2004. On 12 July 2004, the European Council issued its decision to replace the NATO mission with an EU-led peacekeeping force (EUFOR). On 11 October 2004, the General Affairs and External Relations Council approved the operational plan for Operation Althea, the largest European-led military operation so far.

68. With the handover from SFOR to EUFOR on 2 December 2004, the first NATO peacekeeping mission, launched as IFOR in December 1995, was brought to a successful end. At the same time, the continued long-term commitment of NATO to the future development of Bosnia and Herzegovina was marked by the opening of a new NATO Headquarters in Sarajevo.

69. EU and NATO planners worked closely in the months leading up to the transfer of authority. The shared objective, a "seamless transition", was achieved. EUFOR operates with approximately the same force size, the same task force structure and the same basic mandate, resources and commitment to ensure peace and stability in Bosnia and Herzegovina as did SFOR. But EUFOR is also a vital additional part of the EU family. A comprehensive approach has been established towards Bosnia and Herzegovina. EUFOR works in unison with the HR/EUSR, European Union Police Mission, the European Union Monitoring Mission and the European Commission's assistance programmes to support both the stabilization and association process and mission implementation plan of the Office of the High Representative. As such, EUFOR buttresses the EU integrated efforts in Bosnia and Herzegovina and helps enable the country to progress towards EU integration by its own efforts.

70. For Bosnia and Herzegovina, the launch of Operation Althea marks the beginning of a new phase in its recovery — its transition from the era of Dayton to the era of Brussels. EUFOR will contribute to the long-term objective of a stable, viable, peaceful and multinational Bosnia and Herzegovina, cooperating peacefully with its neighbours and irreversibly on track towards EU membership.

71. EUFOR has the main peace stabilization role and monitors the implementation of the military aspects of the General Framework Agreement for Peace. It successfully undertook its first major operation, conducting inspections of military facilities throughout the country, in the days before Christmas 2004. One aspect in

which it differs from SFOR is that it has an explicit mandate to provide support in the fight against organized crime, in order to strengthen the safe and secure environment and help Bosnia and Herzegovina progress towards a self-governing and self-policing capacity.

XIII. Mostar

72. Unification of the city of Mostar has proceeded relatively well, given the complexity of the process and the efforts of some hardliners to block progress. A compromise city budget was eventually adopted by the City Council in mid-2004. Some success has been made in joining divided institutions and a degree of cooperation between the moderate majorities of the main political parties has started to emerge. The opening of the rebuilt Old Bridge on 23 July 2004, in the presence of many dignitaries, cast the world's spotlight on Mostar and helped further to normalize the atmosphere in the city. The post-war internal ethnic boundaries are gradually starting to lose their significance, as increasing numbers of citizens travel, socialize, work and live more freely throughout Mostar.

73. The October elections produced no clear majority in the Council. After extensive power-sharing negotiations, a Croat mayor was finally elected with an element of cross-party and cross-ethnic support — a development that would have been almost unthinkable before the statute was imposed a year ago. The new mayor has started to appoint a multi-ethnic city administration applying the European standards of the new Civil Service Law. There is clear majority support among the Council and community as a whole to press on with the unification process.

74. However, the political situation is still fragile and potentially volatile, and much of the technical process of unification has still to be completed. For that reason a small international team remains for the time being to assist the mayor and the Council. Nonetheless, although progress has been somewhat slower than expected, the unification process in Mostar remains on track.

XIV. Bosnia and Herzegovina and the region

75. Bosnia and Herzegovina has continued to pursue its policy of good-neighbourly relations and active regional cooperation.

76. The growing international pressure on Serbia and Montenegro and Republika Srpska to cooperate with the Tribunal has reinforced the crucial need for cooperation on both sides of the border.

77. The reporting period was marked by a high profile visit by Serbian President Boris Tadic to Bosnia and Herzegovina, during which he offered his apologies "for those who committed crimes in the name of the Serb people" during the war. In the course of this visit, the members of the Bosnia and Herzegovina presidency and the Serbian President officially agreed that their countries' common goal was membership in EU and the Partnership for Peace.

78. In Croatia, the re-election of President Mesic is expected to contribute positively to continuity and stability in both Bosnia and Herzegovina and the region. This election afforded an opportunity to return to the long-standing issue of double citizenship and the related issue of dual voting rights for Bosnia and Herzegovina

Croats. The ongoing constructive dialogue surrounding this question is a sign that normalization between the two countries is moving ahead.

79. Bosnia and Herzegovina's successful presidency of the South-East European Cooperation Process, including the first meeting of defence ministers from the region, demonstrated both the capacity of Bosnia and Herzegovina to play a valuable political role at the regional level and the utility of the Process as an inter-State forum.

XV. Returns of refugees and displaced persons

80. The reporting period saw the return home of the 1 millionth refugee in Bosnia and Herzegovina — a significant milestone in the return process since the Dayton-Paris Peace Accords.

81. The Bosnia and Herzegovina authorities successfully assumed responsibility for annex VII implementation at the beginning of 2004. Since then, the State authorities have proved they are taking this responsibility seriously. In November 2004, the Office of the High Representative closed its small unit that monitored returns.

82. The rate of property law implementation, a vital pre-condition for return, has continued to climb. It had been hoped that this process would be finished by now but Banja Luka continues to lag behind. All other municipalities in Bosnia and Herzegovina have finished the job. We now expect an end date around April 2005.

83. The Bosnia and Herzegovina State Commission for Refugees and Displaced Persons, which the Office of the High Representative attends as an observer, continues to act as the main coordinating body between the State, the entities and Brcko District. The State ministry has secured loans from the Council of Europe Development Bank and OPEC, which have provided an early indicator of success.

84. Furthermore, a return fund has been established. Although the State, Brcko and Republika Srpska have transferred their financial commitments, the Federation has been tardy in doing so. However, with loans secured for 2005, we are confident that the State ministry and the State Commission for Refugees and Displaced Persons will have sufficient means to implement their returns policy.

85. The Republika Srpska has still not harmonized its entity legislation with the State Law on Refugees and Displaced Persons. A public debate has been taking place, which should contribute both to the draft Republika Srpska law and its eventual passage.

86. The transfer of responsibilities from the Commission for Real Property Claims to the Bosnia and Herzegovina authorities was completed during the reporting period. A body charged with reconsidering Commission decisions was established, and commissioners appointed. This Commission is set to meet regularly throughout 2005.

XVI. European Union Police Mission

87. During the past six months, the State-level Ministry of Security has achieved notable progress in recruiting staff and establishing internal departments covering its areas of responsibility. The Minister of Security has taken over the chairmanship of the Ministerial Consultative Meeting on Police Matters — originally established by the United Nations Mission in Bosnia and Herzegovina/International Police Task Force, through which he coordinates and oversees the political aspects of all the State-level police agencies. In the past six months, a series of important new laws was drafted and adopted, particularly a law that creates and regulates a new immigration service, an updated law governing the working of the State Border Service, and a Law on police officials.

88. The State Investigation and Protection Agency is now established in temporary accommodation in Sarajevo. Planning is under way to secure permanent facilities. The legal framework and books of rules by which the Agency operates have been established. Two regional offices were also set up, with a total of 279 police officers recruited to date. Most of the heads of the various State Investigation and Protection Agency departments have been appointed, and the Criminal Investigation Department has begun conducting investigations. An Interface Cell for Criminal Intelligence has been formed as the conduit and focal point for the input of intelligence from international stakeholders. The Interface Cell for Criminal Intelligence is entirely staffed by EU Police Mission officers who will later hand over the running of the cell to State Investigation and Protection Agency officers. The EU Police Mission has provided advice at all stages leading up to the introduction of new laws on surveillance of the State border and the State Border Service, which bring together and update the legislation underpinning the Agency and its work. The structure, including command, rank and organizational aspects, have been brought into line with the other State-level agencies, and the procedures and powers given to police officers on the border are now clearer and more effective.

89. To help achieve financial viability and sustainability by local police, the EU Police Mission has made progress in developing local capacity in regard to setting salary scales, budget planning for organizational units, revising maintenance costs of premises, rationalization of the use of police equipment, control over inventories and payrolls, and general budget implementation and management. Staff at the Bosnia and Herzegovina and Republika Srpska Ministries of Interior were trained in handling budgets at the local level, in particular in matching operational planning and budget management.

90. The EU Police Mission was fully engaged in the police restructuring process, and the EU Police Mission Head of Mission served as a full member of the Police Restructuring Commission. Furthermore, the Mission seconded personnel to the Commission's secretariat. The Mission also set up a police restructuring working group to represent the views of the EU Police Mission to the Commission and to provide technical expertise.

XVII. Police certification

91. With regard to the problems faced in relation to the certification process conducted by the United Nations International Police Task Force during its mandate in Bosnia and Herzegovina, the Presidency of Bosnia and Herzegovina requested, following the statement issued by the President of the Security Council on 25 June 2004, all competent Bosnia and Herzegovina authorities to harmonize their laws in order to give full effect to the United Nations certification decisions. We expect the authorities of Bosnia and Herzegovina to adopt such amendments.

92. With respect to the need to identify a solution regarding allegations of specific problematic cases, the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina rendered a decision in mid-2004 making it clear that the implementation of the United Nations certification decisions by domestic authorities did not violate the rights of police officers under the European Convention on Human Rights. The need to review all United Nations decisions on questions of law and fact can be now measured against this decision. However, there are still daily allegations of procedural shortcomings, examples of which have been sent to the Office of the High Representative by another United Nations agency in Bosnia and Herzegovina. The domestic authorities have recently requested the Venice Commission of the Council of Europe to examine potential solutions to address such problematic cases within the framework of Bosnia and Herzegovina's international obligations. The opinion of the Venice Commission is scheduled to be adopted in March 2005.

XVIII. Media development

93. During the reporting period, reform of the public broadcasting system encountered some serious obstacles. The Bosnia and Herzegovina Parliament failed to adopt the relevant public broadcasting legislation necessary to bring Bosnia and Herzegovina into compliance with the EU feasibility study requirements — to create a single, self-sustainable public broadcasting system where constituent broadcasters share a common infrastructure. This failure occurred because Republika Srpska delegates in the Bosnia and Herzegovina Parliament opposed the amendments that would allow for the creation of a sound common resource corporation. In addition, HDZ members pushed for the establishment of three separate "national" channels in addition to the two existing entity broadcasters, which was clearly against the requirements of the feasibility study and the Dayton-Paris Peace Accords.

94. The Office of the High Representative, along with the European Commission, managed to renegotiate the obstructive positions of the relevant parties. The outstanding issues were adequately resolved, and the new draft public broadcasting legislation now awaits adoption in the Council of Ministers.

95. The State-wide television service that was launched in August has been well accepted in both entities and is now in the process of tuning its programme orientation to address the challenges of the broadcasting market.

XIX. Mission implementation plan

96. Much progress has been made during the reporting period towards reaching two crucial milestones: membership in Partnership for Peace and the opening of negotiations on a stabilization and association agreement.

97. The 2004 mission implementation plan contained four core tasks made up of 26 programmes comprising 248 items. Progress during the calendar year 2004 included a number of major breakthroughs, including the establishment of the Indirect Tax Authority Governing Board, the State Ministry of Defence, the State Intelligence and Security Agency, the unification of Mostar, and progress in regulating the entities' internal debts.

98. Of 26 programmes, 4 were completed, including the State Management of Identity Documents, the Parliamentary Oversight over the Armed Forces and the Security Policy. Of the total of 230 detailed programme items, 116 (or 50 per cent) were completed by the end of the year.

99. In the light of these developments, the 2005 mission implementation plan submitted to the Peace Implementation Council contains 108 items to be completed, out of which 102 items are due to be completed by the end of 2005. A further six items (five by February and one by December) were expected to continue into 2006. By the end of 2005, only two programmes are expected to have outstanding items: reshape Bosnia and Herzegovina criminal law enforcement landscape and public broadcasting.

100. Deletions that have been made are linked to the establishment of local institutions (such as the High Judicial and Prosecutorial Council) that took over the implementation of reforms. These were changes in strategy (termination of the intergovernmental task force on public administration strategy), specific steps or actions which were no longer foreseen (e.g., a State-level law on local self government, which was abandoned), and engagement of other international agencies that were better equipped to move technical reforms forward (such as the United States Agency for International Development on municipal reform).

XX. Reporting schedule

101. In keeping with my proposal to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I plan to send my next report in August 2005. That report will cover the period from 1 January until 30 June 2005. My aim is that subsequent reports should also cover six-month periods. Should you or any Council member require information at any other time, I should be only too pleased to provide a written update.

United Nations S/2005/157

Security Council

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Draft resolution

The Security Council,

Reaffirming all its previous resolutions and statements pertaining to the situation between Ethiopia and Eritrea, and the requirements contained therein, including in particular resolution 1560 (2004) of 14 September 2004,

Stressing its unwavering commitment to the peace process, including through the role played by the United Nations Mission in Ethiopia and Eritrea (UNMEE), and to the full and expeditious implementation of the Comprehensive peace agreement signed by the Governments of Ethiopia and Eritrea (hereinafter referred to as "the parties") on 12 December 2000 and the preceding Agreement on the Cessation of Hostilities of 18 June 2000 (S/2000/1183 and S/2000/601, respectively, hereinafter referred to as the "Algiers Agreements"), and the delimitation decision by the Boundary Commission of 13 April 2002 (S/2000/423), embraced by the parties as final and binding in accordance with the Algiers Agreements,

Welcoming the Secretary-General's determination that UNMEE has been able to maintain the integrity of the Temporary Security Zone (TSZ),

Expressing concern regarding the recent high concentration of Ethiopian troops in the areas adjacent to the TSZ,

Recalling that lasting peace between Ethiopia and Eritrea as well as in the region cannot be achieved without the full demarcation of the border between the parties,

Seriously concerned with the Commission's decision to take immediate steps to close down its field offices, due to the lack of progress made in the demarcation of the border, as reflected in the 16th report on the work of the Eritrea-Ethiopia Boundary Commission of 24 February 2005,

Expressing concern about Ethiopia's ongoing rejection of significant parts of the Boundary Commission's decision, and its current lack of cooperation with the Commission, including the refusal to participate in the meeting of 22 February 2005,

Expressing disappointment about the continuing refusal of Eritrea to engage with the Secretary-General's Special Envoy for Ethiopia and Eritrea, whose good offices represent a concrete opportunity for both parties to move the peace process forward,

05-26997 (E) 140305

Recalling the recent increase in United Nations peacekeeping activities and the need to allocate peacekeeping resources in the most effective manner, and recalling in this regard the additional burden caused by the delays in the demarcation process,

Welcoming Eritrea's unconditional acceptance of the Boundary Commission's decision,

Welcoming Ethiopia's Five point proposal of 25 November 2004,

Having considered the report of the Secretary-General (S/2005/142) and welcoming the observations made therein,

1. *Decides* to extend the present mandate of UNMEE until 15 September 2005;

2. *Calls* on both parties to refrain from any increase of troops in the areas adjacent to the Temporary Security Zone, to give serious consideration to returning to the 16 December 2004 levels of deployment and more generally, to refrain from any threat of use of force against each other;

3. *Calls* on both parties to cooperate fully and expeditiously with UNMEE in the implementation of its mandate, to ensure the security of all UNMEE staff, and to remove immediately and unconditionally all restrictions on and impediments to the work and to the full and free movement of UNMEE and its staff;

4. *Takes note* of positive developments in some areas of relations between UNMEE and both parties, and in this regard urges Eritrea to take immediate steps, in consultation with UNMEE, towards implementing the direct flights between Addis Ababa and Asmara; also calls upon Eritrea to reopen the Asmara to Barentu road;

5. *Stresses* that Ethiopia and Eritrea have the primary responsibility for the implementation of the Algiers Agreements and the decision of the Eritrea-Ethiopia Boundary Commission and calls upon both parties to show leadership to achieve a full normalization of their relationship, including through political dialogue for the adoption of further confidence-building measures and to consolidate progress achieved so far, by making full use of the existing framework of the Boundary Commission;

6. *Reiterates* its call on the parties to cooperate fully and promptly with the Boundary Commission and to create the necessary conditions for demarcation to proceed expeditiously, including through the complete appointment by Ethiopia of its field liaison officers;

7. *Calls* on Ethiopia without preconditions to start the implementation of demarcation, by taking the necessary steps to enable the Commission to demarcate the border completely and promptly;

8. *Expresses* its concern at the worsening humanitarian situation in Ethiopia and Eritrea and the implications this could have for the peace process and calls on Member States to continue to provide prompt and generous support for humanitarian operations in Ethiopia and Eritrea;

9. *Reiterates* its full support for the Secretary-General's Special Envoy for Ethiopia and Eritrea, Lloyd Axworthy, in his efforts to facilitate the implementation of the Algiers Agreements, the decision of the Boundary Commission and

normalization of diplomatic relations between the two countries through his good offices, and emphasizes that this appointment does not constitute an alternative mechanism;

10. *Calls* on Eritrea to accept the good offices of the Secretary-General and cooperate with his Special Envoy for Ethiopia and Eritrea;

11. *Calls* on the witnesses to the Algiers Agreements to play a more concerted and active role to facilitate their full implementation;

12. *Decides* to continue monitoring closely the steps taken by the parties in the implementation of their commitments under the relevant resolutions of the Security Council and under the Algiers Agreements, including through the Boundary Commission, and to review any implications for UNMEE;

13. *Requests* the Secretary-General to continue to monitor the situation closely, to review the mission's mandate in the light of progress made in the peace process and changes made to UNMEE;

14. *Decides* to remain actively seized of the matter.